



March 13, 2023

**VIA EMAIL**

Fond du Lac County District Attorney  
City-County Government Center  
160 S. Macy St.  
Fond du Lac, WI 54935  
[grahl.julie@da.wi.gov](mailto:grahl.julie@da.wi.gov)

**Re: Public Records Law Request**

Dear Public Records Officer:

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 your office produce the following records “as soon as practicable and without delay”:<sup>1</sup>

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 Fond du Lac County District Attorney Eric Toney, Deputy District Attorney Barry Braatz, or anyone communicating on their behalf, such as a scheduler or assistant, and 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, 2021, through November 30, 2022.

**External Entities:**

1. Wisconsin State Representative Janel Brandtjen (including, but not limited to, [janel@brandtjen.com](mailto:janel@brandtjen.com), [janel@glmarketing.com](mailto:janel@glmarketing.com), [rep.brandtjen@legis.wisconsin.gov](mailto:rep.brandtjen@legis.wisconsin.gov)), or her aides Melodie Duesterbeck and Bill Savage

---

<sup>1</sup> Wis. Stat. § 19.35(4)(a).



2. Wisconsin State Representative Tim Ramthun ([timothy.ramthun@legis.wi.gov](mailto:timothy.ramthun@legis.wi.gov), [ramthun@hotmail.com](mailto:ramthun@hotmail.com))
3. Wisconsin Elections Commissioner Robert Spindell ([robert.spindell@wisconsin.gov](mailto:robert.spindell@wisconsin.gov), [cd4.chairman@wisgop.info](mailto:cd4.chairman@wisgop.info), [rspindell@gottesmancompany.com](mailto:rspindell@gottesmancompany.com))
4. Any employee or representative of Protect America Now ([protectamericanow.com](http://protectamericanow.com))
5. Anyone communicating from an email address ending in [americaproject.com](http://americaproject.com) or [theamericaproject.com](http://theamericaproject.com)
6. Catherine Engelbrecht, Chelsea Magee or anyone communicating on behalf of True the Vote ([truethevote.org](http://truethevote.org) or [truethevote.com](http://truethevote.com))
7. Christina Bobb ([christina.bobb@oann.com](mailto:christina.bobb@oann.com), [christina@cgbstrategies.com](mailto:christina@cgbstrategies.com))
8. Cleta Mitchell ([cleta@cletamitchell.com](mailto:cleta@cletamitchell.com), [cmitchell@foley.com](mailto:cmitchell@foley.com))
9. Dan Eastman ([dan@attorneyeastman.com](mailto:dan@attorneyeastman.com))
10. Ed Corrigan, or anyone communicating from an email address ending in [cpi.org](http://cpi.org) or [conservativepartnership.org](http://conservativepartnership.org)
11. Eric "Kase" Kasemodel ([kzmon@protonmail.com](mailto:kzmon@protonmail.com))
12. Erick Kaardal, Nicholas Morgan, William Mohrman, Mary Gynild, or anyone communicating on behalf of Mohrman, Kaardal & Erickson, P.A. ([mklaw.com](http://mklaw.com))
13. Gary Wait ([glwfishs@aol.com](mailto:glwfishs@aol.com))
14. Gregg Phillips, or anyone communicating from an email address ending in [opsec.group](http://opsec.group) or [patriotgames.com](http://patriotgames.com)
15. Harry Wait ([harry.wait922@gmail.com](mailto:harry.wait922@gmail.com), [harrytrex@gmail.com](mailto:harrytrex@gmail.com), [hotgovernment@gmail.com](mailto:hotgovernment@gmail.com))
16. Jay Stone ([jayjoelstone@gmail.com](mailto:jayjoelstone@gmail.com), [jaywispecialcounsel@protonmail.com](mailto:jaywispecialcounsel@protonmail.com))
17. Jefferson Davis ([jeffersondavis784@gmail.com](mailto:jeffersondavis784@gmail.com), [davisforpresident@protonmail.com](mailto:davisforpresident@protonmail.com))
18. Jim Spodick ([jspodick1212@gmail.com](mailto:jspodick1212@gmail.com), [hotgovernment@protonmail.com](mailto:hotgovernment@protonmail.com))
19. Kurt Olsen ([kurtols@protonmail.com](mailto:kurtols@protonmail.com), [ko@pwc.com](mailto:ko@pwc.com))
20. Luis Cornelio ([luis.cornelio@protonmail.com](mailto:luis.cornelio@protonmail.com), [lcornel001@citymail.cuny.edu](mailto:lcornel001@citymail.cuny.edu))
21. Michael D. Dean ([miked@michaelddeanllc.com](mailto:miked@michaelddeanllc.com))
22. Michael Gableman ([wijustice@protonmail.com](mailto:wijustice@protonmail.com), [mgableman@protonmail.com](mailto:mgableman@protonmail.com), [mgableman@yahoo.com](mailto:mgableman@yahoo.com)), or anyone communicating from an email address ending in [wispecialcounsel.org](http://wispecialcounsel.org)
23. Mike Lindell, Michele Replogle ([micrep@protonmail.com](mailto:micrep@protonmail.com), [micrep@pm.me](mailto:micrep@pm.me)), or anyone communicating from an email address ending in [mypillow.com](http://mypillow.com) or [causeofamerica.org](http://causeofamerica.org)
24. Peter Bernegger ([pmbmap123@gmail.com](mailto:pmbmap123@gmail.com))
25. Phill Kline ([phillklineva@gmail.com](mailto:phillklineva@gmail.com)), Jacqueline Timmer, or anyone communicating on behalf of the Amistad Project ([got-freedom.org](http://got-freedom.org) or [americanvotersalliance.org](http://americanvotersalliance.org))
26. Richard Mack ([cspoa2011@gmail.com](mailto:cspoa2011@gmail.com), [sheriffmack@hotmail.com](mailto:sheriffmack@hotmail.com), [sheriffmack@protonmail.com](mailto:sheriffmack@protonmail.com)), Sam Bushman, or anyone communicating from an email address ending in [cspoa.org](http://cspoa.org)

27. Ron Heuer ([ronheuer@gmail.com](mailto:ronheuer@gmail.com), [wiscjustice@outlook.com](mailto:wiscjustice@outlook.com)), Zak Niemierowicz ([zwn@uwm.edu](mailto:zwn@uwm.edu)), or anyone communicating from an email address ending in wisconsinvoteralliance.com
28. Sandra Juno ([junosandra@yahoo.com](mailto:junosandra@yahoo.com), [audejuno@gmail.com](mailto:audejuno@gmail.com))
29. Seth Keshel ([skeshel@gmail.com](mailto:skeshel@gmail.com), [skeshel@protonmail.com](mailto:skeshel@protonmail.com))
30. Thomas Brechja, Andrew Bath, Tim Griffin, or anyone communicating from an email address ending in thomasmoresociety.org
31. Tristan Johannes ([tristan.johannes@legis.wi.gov](mailto:tristan.johannes@legis.wi.gov), [tjohannesagency@gmail.com](mailto:tjohannesagency@gmail.com))

Please note that this request does not seek, and specifically excludes, records contained in a prosecutor's file.

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 District Attorney Toney received a mass-distribution news clip email from an address ending in truethetvote.org, that initial email would not be responsive to this request. However, if he 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.<sup>2</sup> American Oversight also makes materials it gathers available on its public

---

<sup>2</sup> 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>.

website<sup>3</sup> and promotes their availability on social media platforms, such as Facebook and Twitter.<sup>4</sup>

The public has a significant interest in attempts to elevate baseless allegations regarding the security of U.S. elections.<sup>5</sup> 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 individuals or entities advancing these allegations have been in contact with public officials in Wisconsin. 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.<sup>6</sup>

---

<sup>3</sup> *Documents*, American Oversight, <https://www.americanoversight.org/documents>.

<sup>4</sup> American Oversight currently has approximately 16,000 followers on Facebook and 112,700 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Mar. 9, 2023); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Mar. 9, 2023).

<sup>5</sup> Grace Panetta, *Conservative Activists Are Recruiting an 'Army' of GOP Poll Workers Who Could Challenge Results and Create Chaos in Key States*, Business Insider (June 1, 2022, 4:36 PM), <https://www.businessinsider.com/conservative-activists-recruiting-army-of-election-workers-politico-2022-6>.

<sup>6</sup> 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>.

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.<sup>7</sup> 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 Sarah Colombo at [records@americanoversight.org](mailto:records@americanoversight.org) or (202) 869-5244. Also, if American Oversight's

---

<sup>7</sup> Wis. Stat. § 19.36(6).

request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,

/s/ Sarah Colombo

Sarah Colombo  
on behalf of  
American Oversight