



October 26, 2020

VIA EMAIL

Stacey Householder
Open Records Officer
810 Third Street
Beaver, PA 15009
openrecords@beavercountypa.gov

Dorene Mandity
Director of Elections
810 Third Street
Beaver, PA 15009
elections@beavercountypa.gov

Re: Right-to-Know Law Request

Dear Ms. Householder:

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.

On October 1, 2020, the *Associated Press* reported that a number of North Carolina elections officials received an email in late September regarding a new rule on vote processing from a campaign operative for President Trump stating, “The NC Republican Party advises you to not follow the procedures.”¹ On October 4, 2020, the U.S. Department of Justice (DOJ) Public Integrity Section announced exemptions to DOJ’s practice of non-interference in election policy, including allowing investigations into alleged “misconduct by federal officials or employees administering an aspect of the voting process through the United States Postal Service, the Department of Defense or any other federal department or agency.”² These unusual actions may have the potential to create confusion or uncertainty at a time when many elections officials are processing huge numbers of early ballots, including many cast by mail.³

¹ Nicholas Riccardi et al., *In Big States, Tiny Counties, Trump Attacking Voting Rules*, Associated Press (Oct. 1, 2020), <https://apnews.com/article/virus-outbreak-election-2020-donald-trump-local-elections-lawsuits-4298a514550323d39931f3e5fff2ccae>.

² Robert Faturechi & Justin Elliott, *DOJ Frees Federal Prosecutors to Take Steps That Could Interfere With Elections, Weakening Long-standing Policy*, ProPublica (Oct. 7, 2020, 12:40 PM), <https://www.propublica.org/article/doj-frees-federal-prosecutors-to-take-steps-that-could-interfere-with-elections-weakening-long-standing-policy>.

³ Brittany Renee Mayes et al., *The U.S. Has Already Hit 87% of Total 2016 Early Voting*, Wash. Post (updated Oct. 21, 2020, 2:47 PM), <https://www.washingtonpost.com/graphics/2020/elections/early-voting-numbers-so-far/>.



American Oversight seeks records with the potential to shed light on whether and to what extent external entities have communicated with local elections officials, including providing advice or directives concerning election administration.

Requested Records

American Oversight requests that the Beaver County Election Bureau produce the following records within five business days:

1. All email communications (including emails, complete email chains, calendar invitations, and attachments thereto) between (a) Director of Elections Stacey Householder, or Chair of the Board of Elections Daniel Camp, and (b) any of the following entities:
 - i. U.S. Department of Justice (@usdoj.gov or @usa.doj.gov)
 - ii. Donald J. Trump for President Campaign (@donaldtrump.com, @donaldjtrump.com, @donaldtrumpvictory.com)
 - iii. America First Action (@a1apac.org)
 - iv. The Republican National Committee (@gop.com or @rnchq.com)
 - v. Republican Federal Committee of Pennsylvania (@pagop.org)

For item 1 of this request, please provide all responsive records from September 1, 2020, through the date the search is conducted.

2. All email communications (including emails, complete email chains, calendar invitations, and attachments thereto) sent by Director of Elections Stacey Householder, or Chair of the Board of Elections Daniel Camp, containing any of the following key terms:
 - i. RNC
 - ii. "PA GOP"
 - iii. "Democrat Party"
 - iv. "Trump Campaign"
 - v. "Election Day Operations"

For item 2 of this request, please provide all responsive records from September 15, 2020, through the date the search is conducted.

In an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited item 2 of 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 an official's response to an email containing a specified term and the initial received message are responsive to this request and should be produced.

We understand that your office's capacity is likely limited as a result of the ongoing election. Should that be the case, we would be happy to discuss potential streamlining or narrowing of our request or other accommodations. Please feel free to contact us at the telephone number listed in the final paragraph of this letter; we look forward to working with you.

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 election administration during an historic election cycle, including operations at the local level. Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including whether external entities are contacting local elections officials offering advice or attempting to exert influence over election administration.

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.⁴

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.⁵ 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 State Accountability Project covering voting rights issues in various states;⁶ posting records and analysis of federal and state governments'

⁴ American Oversight currently has approximately 15,600 page likes on Facebook and 106,200 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Oct. 26, 2020); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Oct. 26, 2020).

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

⁶ See generally *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>; *Georgia's Voting Machines and Election Security*, American

responses to the Coronavirus pandemic;⁷ 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;⁸ and the posting of records related to an ethics waiver received by a senior DOJ attorney and an analysis of what those records demonstrated regarding the Department’s process for issuing such waivers.⁹

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.

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:

- 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

Oversight, <https://www.americanoversight.org/investigation/georgias-voting-machines-and-election-security>.

⁷ 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>.

⁸ 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>.

⁹ *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>.

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.¹⁰
- 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.

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 Christine Monahan at records@americanoversight.org or (202) 869-5244. Also, if American Oversight's

¹⁰ See, e.g., *Barkeyville Borough v. Stearns*, 35 A.3d 91, 95–97 (Pa. Commw. Ct. 2012).

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 flourish extending to the left.

Austin R. Evers
Executive Director
American Oversight