



October 2, 2020

VIA EMAIL

Public Records Custodian
Office of the Governor
115 E. Capitol Dr. #1
Madison, WI 53702
GOVPublicRecords@wisconsin.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.

The Trump administration has deployed federal law enforcement officers in problematic ways in recent months, including through “Operation Legend,” a high-profile effort that the U.S. Department of Justice (DOJ) has asserted is aimed at reducing violent crime in key cities.¹ However, DOJ has expanded the operation to cities in states that may be pivotal in the coming presidential election, raising fears that the deployments are politically motivated.² On September 22, Attorney General William Barr traveled to Milwaukee for a press conference announcing charges against alleged members of a drug trafficking operation, “as part of Operation Legend.”³ American Oversight seeks records with the potential to shed light on state and local officials’ communications with DOJ and the U.S. Department of Homeland Security (DHS) in light of these deployments and other federal actions.

¹ Matt Zapposky & Annie Gowen, *Trump’s Operation Legend Was Supposed to Combat Crime. It’s Produced One Arrest, And Some See a Political Stunt*, Wash. Post (July 23, 2020, 7:21 PM), https://www.washingtonpost.com/national-security/trumps-operation-legend-was-supposed-to-combat-crime-its-produced-one-arrest-and-some-see-a-political-stunt/2020/07/23/cf03eba6-cd09-11ea-91f1-28aca4d833a0_story.html.

² Kristine Phillips, *Federal Agents, Officers Head to Detroit, Cleveland, Milwaukee as Operation Legend Expands*, USA Today (July 29, 2020, 2:14 PM), <https://www.usatoday.com/story/news/politics/2020/07/29/operation-legend-doj-to-send-officers-to-detroit-cleveland-milwaukee/5535490002/>.

³ Press Release, Attorney General William P. Barr Announces Updates on Operation Legend at Press Conference in Milwaukee, Dep’t of Justice (Sept. 22, 2020), *available at* <https://www.justice.gov/usao-edwi/pr/attorney-general-william-p-barr-announces-updates-operation-legend-press-conference-1>.



Requested Records

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

All email communications (including emails and email attachments) sent by (1) Governor Tony Evers, Chief of Staff Maggie Gau, or Deputy Chief of Staff Kara Pennoyer, to (2) anyone communicating from an email address ending in usdoj.gov, fbi.gov, or dhs.gov.

Please provide all responsive records from July 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 its request to emails sent by the above 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 from an usdoj.gov email address and the initial received message are 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. American Oversight also makes materials it gathers available on its public website⁵ and promotes their availability on social media platforms, such as Facebook and Twitter.⁶ American Oversight has demonstrated its

⁴ Wis. Stat. § 19.35(4)(a).

⁵ *Documents*, American Oversight, <https://www.americanoversight.org/documents>.

⁶ American Oversight currently has approximately 15,600 page likes on Facebook and 105,400 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Sept. 30, 2020); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Sept. 30, 2020).

commitment to the public disclosure of documents and creation of editorial content through numerous substantive analyses posted to its website.⁷

The public has a significant interest in understanding whether the President or the federal government are inappropriately using federal law enforcement in localities and doing so over the objections of local leaders. Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including whether the Office of the President has communicated with local leaders about these deployments or other important matters. 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.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.⁹ 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.

⁷ *News*, American Oversight, <https://www.americanoversight.org/blog>.

⁸ 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>.

⁹ Wis. Stat. § 19.36(6).

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 Dan McGrath at records@americanoversight.org or 202.897.4213. 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,



Austin R. Evers
Executive Director
American Oversight