



November 16, 2020

VIA EMAIL

Mayor John Antaramian
625 52nd Street Room 300
Kenosha, WI 53140
mayor@kenosha.org

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.

In the days following a police officer killing George Floyd, people in Kenosha, Wisconsin have protested against police brutality and white supremacy. Law enforcement has sometimes responded to these protests with violence, including charging at protesters, firing smoke canisters, pepper spray, and rubber bullets.¹ In August 2020, the Intercept reported that protesters in multiple states are facing felony charges, including terrorism.²

American Oversight requests documents to detail the relationship between the federal government and the Mayor's Office in response to protests.

Requested Records

American Oversight requests that the Office of the Mayor produce the following records "as soon as practicable and without delay":³

- 1) Records reflecting agreements between the Mayor's Office and the Department of Justice regarding investigation and/or prosecution of protesters.

¹ Dan Friedell, *Some Clarity a Day After Reports Of Tear Gas in Lafayette Square, but Questions Remain*, WTOP, June 2, 2020, <https://wtop.com/dc/2020/06/some-clarity-a-day-after-reports-of-tear-gas-in-lafayette-square-but-questions-remain/>.

² Akela Lacy, *Protesters in Multiple States are Facing Felony Charges, Including Terrorism*, The Intercept, Aug. 27, 2020, <https://theintercept.com/2020/08/27/black-lives-matter-protesters-terrorism-felony-charges/>.

³ Wis. Stat. § 19.35(4)(a).



- 2) All communications between the Mayor's Office and Department of Justice regarding investigation and prosecution of protesters.

Please provide all responsive records from May 26, 2020, through date of search.

To be clear, American Oversight is not seeking records regarding specific suspects, charges, or prosecutorial decisions, but rather requests records reflecting general, high-level coordination and correspondence between local and federal officials concerning prospective enforcement actions against protesters.

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.⁴ American Oversight also makes materials it gathers available on its public

⁴ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>; *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>; *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>.

website⁵ and promotes their availability on social media platforms, such as Facebook and Twitter.⁶

The public has a significant interest in how the Mayor's office worked with the federal government when responding to protests against police brutality. Records with the potential to shed light on this issue would contribute significantly to public understanding of operations of both the D.C. and federal government, including understanding Mayor Antaramian's and his senior staff's awareness of and response to federal law enforcement tactics for protests happening in Kenosha.

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.⁷

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.⁸ 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

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

⁶ American Oversight currently has approximately 16,370 page likes on Facebook and 106,200 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited October 28, 2020); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited October 28, 2020).

⁷ 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>.

⁸ Wis. Stat. § 19.36(6).

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 Hart Wood at records@americanoversight.org or (202) 873-1743. 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