



November 10, 2020

VIA EMAIL

Representative Ron Tusler
Chair, Committee on Campaigns and Elections
Wisconsin Assembly
Room 22 West
State Capitol
PO Box 8953
Madison, WI 53708
Rep.Tusler@legis.wisconsin.gov

Re: Public Records Law Request

Pursuant to Wisconsin's public records law, Wis. Stat. §§ 19.31–19.39, American Oversight makes the following request for copies of records.

On November 6, 2020, Wisconsin State Assembly Speaker Robin Vos directed the Assembly Campaign and Elections Committee to investigate the November 3rd presidential election, citing unfounded “concerns surfacing about mail-in ballot dumps and voter fraud,” echoing similar language from President Trump.¹

American Oversight seeks records with the potential to shed light on whether or to what extent Wisconsin officials are acting at the behest of external political actors.

Requested Records

American Oversight requests that your office produce the following records “as soon as practicable and without delay”:²

1. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) between (a) Rep. Tusler or his Legislative Aide William Penterman, and (b) any of the external parties listed below:
2. All text message chains/conversations or message chains/conversations on messaging applications similar in form to text messages (such as Signal, WhatsApp, Facebook Messenger, Twitter DMs, etc.) between (a) Rep. Tusler

¹ Molly Beck, *Assembly Speaker Robin Vos to Investigate Election After Trump Alleges Fraud Without Evidence*, Milwaukee J.-Sentinel (updated Nov. 7, 2020, 7:55 AM), <https://www.jsonline.com/story/news/politics/elections/2020/11/06/vos-investigate-election-after-trump-alleges-fraud-without-evidence/6193960002/>.

² Wis. Stat. § 19.35(4)(a).



or his Legislative Aide William Penterman, and (b) any of the external parties listed below:

External Parties:

- a. Anyone communicating from an email address ending in @donaldtrump.com, @donaldjtrump.com, @trumpvictory.com, or @trumporg.com
- b. John Gore, Alex Popatov, or anyone communicating from an email address ending in @jonesday.com
- c. Justin Clark, Nathan Groth, Stefan Passantino, or anyone communicating from an email address ending in @michaelbest.com
- d. Kory Langhofer, Thomas Basile, or anyone communicating from an email address ending in @statecraftlaw.com
- e. Brett Johnson, Eric Spencer, or anyone communicating from an email address ending in @swlaw.com
- f. Anyone communicating from an email address ending in @gop.com, @rnchq.com, @wisgop.org, or @wisgop.info
- g. Jason Stuckey (including, but not limited to, at jstuckey@bricker.com)
- h. Jason Torchinsky (including, but not limited to, at jtorchinsky@hvjt.law)
- i. Tom Fitton or anyone communicating from an email address ending in @judicialwatch.org
- j. Catherine Engelbrecht, or anyone communicating from an email address ending in @truethevote.org
- k. J. Christian Adams, Logan Churchwell, or anyone communicating from an email address ending in @publicinterestlegal.org or @electionlawcenter.com
- l. Hans von Spakovsky or anyone communicating from an email address ending in @heritage.org
- m. James O’Keefe or anyone communicating from an email address ending in @projectveritas.com or @projectveritasaction.com
- n. Jay Sekulow or anyone communicating from an email address ending in @aclj.org
- o. Matt Schlapp or anyone communicating from an email address ending in @conservative.org
- p. Rudolph Giuliani, or anyone communicating on his behalf (such as Jo Ann Zafonte, Christianne Allen, Beau Wagner, or anyone communicating from an email address ending in @giulianisecurity.com, giulianipartners.com, gdcillc.com)
- q. Anyone communicating from an email address ending in mail.house.gov or senate.gov
- r. Anyone communicating from an email address ending in @lindseygraham.com

For ease of reference, American Oversight has included email addresses where possible for the external parties listed. To be clear, however, American Oversight's request is not limited to email communications. Text messages or other messages similar in form to text messages between the listed parties are responsive to item 2 of this request.

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 Rep. Tusler received a mass-distribution news clip email from the Honest Elections Project, that initial email would not be responsive to this request. However, if Rep. Tusler forwarded that email to another individual with his own commentary, that subsequent message would be responsive to this request and should be produced.

Please provide all responsive records from October 26, 2020, through the date the search is conducted.

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.³ American Oversight also makes materials it gathers available on its public

³ 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>.

website⁴ and promotes their availability on social media platforms, such as Facebook and Twitter.⁵

The public has a significant interest in the conduct of elections in the state of Wisconsin. 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 entities external to the government may be attempting to exert influence over election administration. 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. Our request also 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.⁶

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.⁷ 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.

⁴ *Documents*, American Oversight, <https://www.americanoversight.org/documents>.

⁵ American Oversight currently has approximately 15,600 page likes on Facebook and 106,100 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Nov. 10, 2020); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Nov. 10, 2020).

⁶ 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>.

⁷ Wis. Stat. § 19.36(6).

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 please contact Emma Lewis at records@americanoversight.org or (202) 919-6303. 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,

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