



July 12, 2021

VIA EMAIL

FOIA Coordinator
Michigan Department of State
P.O. Box 30204
Lansing, MI 48918
MDOS-FOIA@michigan.gov

Re: Freedom of Information Act Request

Dear FOIA Coordinator:

Pursuant to Michigan's Freedom of Information Act (FOIA), as codified at Mich. Comp. Laws Ann. § 15.231 et seq., American Oversight makes the following request for records.

On November 23, 2020, the Michigan State Board of Canvassers voted to certify the outcome of the November 2020 election,¹ though member Norm Shinkle abstained from the vote and called for an audit of the results.² In recent months, a number of jurisdictions have initiated or requested investigations into the election, including several counties in Michigan,³ despite a lack of evidence of widespread fraud or malfeasance.⁴

¹ Dave Boucher, *Michigan Board Votes to Certify Election Results Despite GOP Calls to Delay*, Detroit Free Press (updated Nov. 23, 2020, 7:40 PM), <https://www.freep.com/story/news/politics/elections/2020/11/23/did-michigan-certify-election-results-board-canvassers/6388768002/>.

² Tom Perkins, *Trump's Michigan Gambit Appears Doomed, But That Won't Stop His Extremist State Allies*, Slate (Nov. 23, 2020, 3:54 PM), <https://slate.com/news-and-politics/2020/11/michigan-board-certification-trump-appears-doomed.html>.

³ Amy Gardner, Rosalind S. Helderman, *Inspired by Arizona Recount, Trump Loyalists Push to Revisit Election Results in Communities Around the Country*, Wash. Post (May 19, 2021, 8:27 PM), https://www.washingtonpost.com/politics/trump-false-claims-fallout/2021/05/19/87aeacc4-b7f9-11eb-a6b1-81296da0339b_story.html.

⁴ See, e.g., MI Bureau of Elections, *Audits of the November 3, 2020 General Election*, Apr. 21, 2021, https://www.michigan.gov/documents/sos/BOE_2020_Post_Election_Audit_Report_04_21_21_723005_7.pdf; Clara Hendrickson & Dave Boucher, *Michigan Republican-Led Investigation Rejects Trump's Claim that Nov. 3 Election Was Stolen*, Detroit Free Press (updated Jun. 24, 2021, 10:08 AM), <https://www.freep.com/story/news/politics/elections/2021/06/23/michigan-senate-investigation-election-trump/5035244001/>.



American Oversight seeks records with the potential to shed light on the role of Michigan public officials in challenging the November 2020 election, including whether or to what extent they communicated with external actors seeking to overturn or investigate the election's results or administration.

Requested Records

American Oversight requests that the State Board of Canvassers respond to this request for the following records within five business days:

- A. All electronic communications (including emails, email attachments, calendar invitations and entries, calendar invitation and entry attachments, text messages, or messages on messaging platforms, such as Slack, GChat or Google Hangouts, Lync, Skype, or WhatsApp) between (A) Board of Canvassers member Norm Shinkle and (B) any of the following individuals or entities listed below:

Specified Entities:

1. Earl Eugene Kern, or anyone communicating on behalf of Wake Technology Services, Inc. (including anyone communicating from an email address ending in @waketsi.com)
2. Ben Cotton, or anyone communicating on behalf of CyFir (including anyone communicating from an email address ending in @cyfir.com)
3. Doug Logan, or anyone communicating on behalf of Cyber Ninjas (including anyone communicating from an email address ending in @cyberninjas.com)
4. Colonel Phil Waldron (including, but not limited to phil@onewarrior.com or p@bonfiresearch.org), Russell Ramsland (including, but not limited to ryuks9sq@alliedspecialops.us), or anyone communicating on behalf of Allied Security Operations Group (including anyone communicating from an email address ending in @alliedspecialops.us)
5. Patrick Byrne, or anyone communicating on behalf of the America Project (including anyone communicating from an email address ending in @americaproject.com)
6. Corey Lewandowski
7. Jovan Hutton Pulitzer (including, but not limited to jovanhuttonpulitzer@gmail.com)
8. Bobby Piton (including, but not limited to rcpiton@gmail.com)
9. Christina Bobb, Chanel Rion, or anyone communicating on behalf of One America News Network (including anyone communicating from an email address ending in @oann.com)
10. Matthew DePerno, or anyone communicating on behalf of DePerno Law Office, PLLC (including anyone communicating from an email address ending in @depernelaw.com)
11. Stefanie Lynn Junttila (or Stefanie Lambert, including, but not limited to attorneystefanielambert@gmail.com)
12. Marian Sheridan, Matthew Seely, or anyone communicating on behalf of the Michigan Conservative Coalition (including

michiganconservativecoalition@gmail.com or anyone communicating from an email address ending in @michiganconservativecoalition.com)

13. Secretary of State Candidate Kristina Karamo
14. Former Michigan State Senator Patrick Colbeck
15. Michigan State Representative Matt Hall
16. Michigan State Senator Ed McBroom
17. Michigan State Representative Steve Carra

Please provide all responsive records from November 3, 2020, through the date the search is conducted.

- B. All electronic communications (including emails, email attachments, calendar invitations and attachments, text messages, or messages on messaging platforms, such as Slack, GChat or Google Hangouts, Lync, Skype, or WhatsApp) between (A) Board of Canvassers member Tony Daunt and (B) the following individuals or entities listed in Part 1, above.

Please provide all responsive records from January 19, 2021, through the date the search is conducted.

Fee Waiver Request

In accordance with Mich. Comp. Laws Ann. § 15.234(2), American Oversight requests a waiver of fees associated with processing this request for records. A waiver of fees for this request “is in the public interest because searching for or furnishing copies of the public record[s] can be considered as primarily benefiting the general public.”⁵

The public has a significant interest in attempts by Michigan officials to cast doubt on the November 2020 election.⁶ Records with the potential to shed light on this issue will help American Oversight and the general public understand whether and to what extent public officials may have acted in communication or coordination with external partisan interests.

American Oversight is committed to transparency and makes the responses agencies provide to FOIA requests publicly available, and the general 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.⁷

⁵ Mich. Comp. Laws Ann. § 15.234(2).

⁶ *See supra*, notes 1-3.

⁷ American Oversight currently has approximately 15,640 page likes on Facebook and 106,200 followers on Twitter. American Oversight, Facebook,

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through numerous substantive analyses posted to its website.⁸ Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to the organization's investigations into misconduct and corruption in state governments;⁹ an ethics waiver received by a senior U.S. Department of Justice attorney and an analysis of what those records demonstrated regarding the Department's process for issuing such waivers;¹⁰ posting records received as part of American Oversight's "Audit the Wall" project to gather and analyze information related to the federal administration's proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;¹¹ posting records regarding potential self-dealing at the U.S. Department of Housing & Urban Development and related analysis;¹² posting records and analysis relating to the federal government's efforts to sell nuclear technology to Saudi Arabia;¹³ and posting records and analysis regarding the U.S. Department of Justice's decision in response to demands from Congress to direct a U.S. Attorney to undertake a wide-ranging review and make recommendations regarding criminal investigations relating to the President's political opponents and allegations of misconduct by the Department of Justice itself and the Federal Bureau of Investigation.¹⁴

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.

<https://www.facebook.com/weareoversight/> (last visited July 8, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited July 8, 2021).

⁸ *News*, American Oversight, <https://www.americanoversight.org/blog>.

⁹ *State Investigations*, American Oversight, <https://www.americanoversight.org/states>.

¹⁰ *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>.

¹¹ *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>.

¹² *Documents Reveal Ben Carson Jr.'s Attempts to Use His Influence at HUD to Help His Business*, American Oversight, <https://www.americanoversight.org/documents-reveal-ben-carson-jr-s-attempts-to-use-his-influence-at-hud-to-help-his-business>.

¹³ *Investigating the Trump Administration's Efforts to Sell Nuclear Technology to Saudi Arabia*, American Oversight, <https://www.americanoversight.org/investigating-the-trump-administrations-efforts-to-sell-nuclear-technology-to-saudi-arabia>.

¹⁴ *Sessions' Letter Shows DOJ Acted on Trump's Authoritarian Demand to Investigate Clinton*, American Oversight, <https://www.americanoversight.org/sessions-letter>.

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:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics. For instance, if the request seeks “communications,” please search all locations likely to contain communications, including relevant hard-copy files, correspondence files, appropriate locations on hard drives and shared drives, emails, text messages or other direct messaging systems (such as iMessage, WhatsApp, Signal, or Twitter direct messages), voicemail messages, instant messaging systems such as Lync or ICQ, and shared messages systems such as Slack.
- In conducting your search, please understand the terms “record,” “document,” and “information” in their 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 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 prior messages sent or received in that email chain, as well as any attachments to the email.
- Please use all tools available to your agency to conduct a complete and efficient search for potentially responsive records. 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.
- 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.¹⁵ 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

¹⁵ Mich. Comp. Laws Ann. § 15.234(14).

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 or (202) 869-5244.

Sincerely,

/s/ Sarah Colombo
Sarah Colombo
on behalf of
American Oversight