



November 18, 2021

VIA EMAIL

Michael C. Brown
FOIA Coordinator
Barry County Courthouse – Floor 3
220 W. State Street
Hastings, MI 49058
bfoiaordinator@barrycounty.org

Re: FOIA 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.

In July 2021, Barry County Sheriff Dar Leaf opened an investigation into claims of voter fraud in the 2020 election.¹ Reports suggest that Sheriff Leaf may have hired a private investigator to assist one of his deputies with conducting the investigation.² American Oversight seeks records with the potential to shed light on the decision to open an investigation of the November 2020 election, including whether or to what extent Sheriff Leaf has been in contact with external individuals or entities.

Requested Records

American Oversight requests that your office respond to this request for the following records within five business days:

1. Complete copies (including any attachments) of any proposal, statement of work, project plan, contract, subcontract, amendment, memorandum of understanding, invoice, or payment submitted to, created by, or in possession of Barry County, or anyone serving as its liaison, agent, contractor, or intermediary, in connection with the planning, preparation, or execution, of any potential or actual audit, recount, investigation, or other analysis or

¹ Brad Devereaux, 'Over My Dead Body,' *Michigan Clerk Says as Investigator Seeks to Question her About Dominion Voting Machines*, MLive (updated Jul. 28, 2021, 1:59 PM), <https://www.mlive.com/news/kalamazoo/2021/07/over-my-dead-body-michigan-clerk-says-as-investigator-seeks-to-question-her-about-dominion-voting-machines.html>.

² Michael Krafcik, *Barry County Sheriff's Office Launches Probe into 2020 Voting Machines*, WWMT News Channel 3 (Jul. 16, 2021), <https://wwmt.com/news/local/barry-county-sheriffs-office-launches-probe-into-2020-voting-machines>.



review of November 2020 election results (including, but not limited to any private investigator(s) working with Sheriff Leaf on the investigation³).

2. Records sufficient to show a breakdown of the projected costs of Sheriff Leaf's audit of Barry County's November 3, 2020 election, including any cost estimates submitted during the procurement process or other documents reflecting the budget for the audit.
3. Records sufficient to identify the sources of any outside funds used to pay for the investigation/audit of Barry County's November 3, 2020 election.
4. Records sufficient to identify the townships and/or precincts to be included in the investigation/audit and the underlying justification for the selection of those townships/precincts.
5. Any scripts or other guidelines or protocols for contacting individual voters by phone, in person, or electronically.

Please provide all responsive records from November 3, 2020, until 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."⁴

The public has a significant interest in the decision of Barry County Sheriff Dar Leaf to launch an investigation into the November 2020 election.⁵ Records with the potential to shed light on this matter will help American Oversight and the general public understand whether and to what extent external individuals or entities have been in contact with Sheriff Leaf about the investigation.

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

³ See Brad Devereaux, *Barry County Prosecutor will Review Voter Fraud Allegations if Sheriff Provides Report or Requests Charges*, MLive (updated Aug. 05, 2021, 9:47 AM), <https://www.mlive.com/news/kalamazoo/2021/08/barry-county-prosecutor-will-review-voter-fraud-allegations-if-sheriff-provides-report-or-requests-charges.html>.

⁴ Mich. Comp. Laws Ann. § 15.234(2).

⁵ See Devereaux, *supra* note 1.

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.⁶

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.⁷ 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;⁸ 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;⁹ 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;¹⁰ posting records regarding potential self-dealing at the U.S. Department of Housing & Urban Development and related analysis;¹¹ posting records and analysis relating to the federal government's efforts to sell nuclear technology to Saudi Arabia;¹² 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

⁶ American Oversight currently has approximately 15,600 page likes on Facebook and 109,100 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Nov. 17, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Nov. 17, 2021).

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

⁸ *State Investigations*, American Oversight, <https://www.americanoversight.org/states>.

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>.

¹⁰ *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>.

¹¹ *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>.

¹² *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>.

allegations of misconduct by the Department of Justice itself and the Federal Bureau of Investigation.¹³

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 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.¹⁴ 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

¹³ *Sessions' Letter Shows DOJ Acted on Trump's Authoritarian Demand to Investigate Clinton*, American Oversight, <https://www.americanoversight.org/sessions-letter>.

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

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. 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,

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