



November 2, 2021

VIA FACSIMILE

Racine County Sheriff's Office
Attn: Records Bureau
717 Wisconsin Avenue
Racine, WI 53403
Facsimile: (262) 637-5279

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.

On October 28, 2021, Racine County Sheriff Christopher Schmaling gave a press conference outlining his allegations that the Wisconsin Elections Commission (WEC) broke the law with respect to guidance issued to nursing homes in the 2020 election.¹ The WEC denies these allegations.²

American Oversight seeks records with the potential to shed light on Sheriff Schmaling's communications with external parties relating to his allegations.

Requested Records

American Oversight requests that your office produce the following records "as soon as practicable and without delay":³

All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) and text messages or messages on messaging platforms (such as Slack, GChat or Google Hangouts, Lync, Skype, Twitter direct messages, Facebook messages, WhatsApp, Signal, Telegram, or Parler) between (a) Sheriff Christopher Schmaling, Chief Deputy John Hanrahan, or Sgt. Michael Luell, and (b) any of the individuals or entities below, including, but not limited to, at the suggested

¹ Molly Beck, *et al.*, *Racine County Sheriff Accuses Wisconsin Elections Commission of Breaking Election Law in Nursing Homes*, Milwaukee Journal Sentinel (Oct. 28, 2021, 9:15 PM),

<https://www.jsonline.com/story/news/politics/elections/2021/10/28/wisconsin-elections-officials-accused-breaking-law-nursing-homes/8582125002/>.

² *Id.*

³ Wis. Stat. § 19.35(4)(a).



email addresses or domains. The search should include those sent or received from personal accounts and devices if they were used to conduct official business, as well those sent from any official email addresses or government-issued devices.

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

Specified Entities:

1. Michael Gableman, Zakary Niemierowicz, Andrew Kloster, or anyone communicating on behalf of Gableman or the Wisconsin Office of Special Counsel
2. Speaker of the Wisconsin Assembly Robin Vos, or anyone communicating on his behalf, including, but not limited to, his scheduler Amanda Ledtke, his chief of Staff Jenny Toftness, his legal advisor Steve Fawcett, or his policy analyst Jake Wolf
3. Representative Janel Brandtjen (janel@brandtjen.com, janel@glmarketing.com, and rep.brandtjen@legis.wisconsin.gov), or anyone communicating on her behalf, including, but not limited to, her aides Bill Savage or Melodie Duesterbeck
4. Wisconsin Senator Van Wanggaard, or anyone communicating on his behalf, including, but not limited to his aides, Chad Taylor, Eric Barbour, Michelle Osdene, or Scott Kelly
5. Wisconsin Representative Chuck Wichgers, or anyone communicating on his behalf, including, but not limited to, his aides, Rebecca Sande and William Neville
6. Representative Timothy Ramthun, or anyone communicating on his behalf, including, but not limited to, his aides Tristan Johannes or Jared Heckman
7. Anyone communicating from an email address ending in @legis.wisconsin.gov
8. Wisconsin Elections Commissioner Bob Spindell (robert.spindell@wisconsin.gov, cd4.chairman@wisgop.info and rspindell@gottesmancompany.com)
9. U.S. Senator Ron Johnson, or anyone communicating on his behalf, including, but not limited to his aides, Sean Riley, Chloe Pickle, Julie Leschke, or anyone communicating from an email address ending in @ronjohnson.senate.gov
10. Mike Lindell
11. Reince Priebus, or anyone communicating on behalf of Michael Best & Friedrich LLP (@michaelbest.com)
12. Jim Troupis (jtroupis@hotmail.com), or anyone communicating on behalf of Troupis Law Office
13. Michael D. Dean (miked@michaelddeanllc.com)
14. Daniel Eastman, or anyone communicating from an email address ending in @attorneyeastman.com
15. Kurt Olsen
16. Erick Kaardal, or anyone communicating on behalf of Mohrman, Kaardal & Erickson, P.A. (@mklaw.com)

17. Ron Heuer (ronheuer@gmail.com) or anyone communicating on behalf of the Wisconsin Voters' Alliance
18. Harry Wait (harrytrex@gmail.com or hotgovernment@gmail.com) or anyone communicating on behalf of Honest, Open, and Transparent Government
19. Rick Esenberg, Brian McGrath, Luke Berg, Katherine Spitz, or anyone communicating on behalf of the Wisconsin Institute for Law & Liberty (including anyone communicating from an email address ending in @will-law.org)
20. Former U.S. Representative Sean Duffy
21. Randy Pullen (rpullen13@gmail.com)
22. Former Arizona Secretary of State Ken Bennett (kbennettaz7@gmail.com, kbazos@gmail.com, kjbennettaz@gmail.com, or arizonaaudit@gmail.com)
23. Patrick Byrne, Mike Roman (mikeroman@protonmail.com) or anyone communicating on behalf of the America Project (@americaproject.com)
24. Lin Wood, or anyone communicating from an email address ending in @fightback.law
25. Micheal Bowman (mbowman@alecaction.org)
26. Ivan Raiklin (ivan.raiklin@gmail.com or socialmediaraiklin@gmail.com)
27. Raj Doraisamy, Caroline Wetherington, or anyone communicating on behalf of Defend Wisconsin or Defend Our Union (@defendourunion.org)
28. Matthew DePerno, or anyone communicating on behalf of DePerno Law Office (@deper nolaw.com)
29. Mike Flynn, or anyone communicating from an email address ending in @generalflynn.com, or anyone communicating on behalf of America's Future (@americasfuture.net)
30. John Eastman (jeastman@claremont.org)
31. Hogan Gidley, Kenneth Blackwell (kennethblackwell693@gmail.com), or anyone communicating on behalf of America First Policy Institute (@americafirstpolicy.com)
32. Phil Waldron (phil@onewarrior.com or p@bonfiresearch.org), Russ Ramsland (ryuks9sq@alliedspecialops.us), James Keet Lewis III (keet@jkeetlewis.com), or anyone communicating on behalf of Allied Security Operations Group (@alliedspecialops.us)
33. Seth Keshel
34. Jovan Hutton Pulitzer (jovanhuttonpulitzer@gmail.com)
35. Shiva Ayyadurai (vashiva@vashiva.com), or anyone communicating on behalf of EchoMail (@echomail.com)
36. Christina Bobb, Chanel Rion, or anyone communicating on behalf of One America News, including anyone communicating from an email address ending in @oann.com, or Voices and Votes, including anyone communicating from an email address ending in @voicesandvotes.org
37. Paul Farrow, Gerard Randall, Katie McCallum, Maripat Krueger, or anyone communicating on behalf of the Republican Party of Wisconsin (@wisgop.org or @wisgop.info)
38. Richard Frazier, Ken Brown, John Leiber, Rosanne Kuemmel, or anyone communicating on behalf of the Racine County Republican Party

39. Phill Kline (phillklineva@gmail.com), Jacqueline Timmerman, or anyone communicating on behalf of America's Voter Alliance (@got-freedom.org)
40. Jenna Ellis, or anyone communicating on behalf of Liberty University's Falkirk Center (@falkirkcenter.com) or the Thomas More Society (@thomasmoresociety.org), the American Greatness Fund (@americangreatnessfund.com), or the Dobson Family Institute (@dobsonfamilyinstitute.com)
41. Karen Mueller, or anyone communicating on behalf of the Amos Center for Justice and Liberty (including, but not limited to, anyone communicating from an email address ending in @amoscenterforjustice.org)
42. Catherine Engelbrecht, Logan Churchwell, Maureen Riordan, Courtney Kramer, Dan Gelernter, or anyone communicating on behalf of True the Vote (including anyone communicating from an email address ending in @truethevote.org or @truethevote.com)
43. Doug Logan, or anyone communicating on behalf of Cyber Ninjas (@cyberninjas.com)
44. Jim Hoft, or anyone communicating on behalf of the Gateway Pundit (@thegatewaypundit.com)

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 Sheriff Schmaling received a mass-distribution news clip email from one of the specified entities, that initial email would not be responsive to this request. However, if Sheriff Schmaling forwarded that email to another individual with his own commentary, that subsequent message would be 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.⁴ 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

The public has a significant interest in the communications of Sheriff Schmaling relating to his allegations about the 2020 election. Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including whether and to what extent Sheriff Schmaling was communicating with or influenced by external parties in relation to any investigations about or related to the 2020 election. 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

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

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

⁶ American Oversight currently has approximately 15,620 page likes on Facebook and 108,900 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Nov. 1, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Nov. 1, 2021).

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 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 Sarah Colombo at records@americanoversight.org or (202) 869-5244. Also, if American Oversight's

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).

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