



October 15, 2021

VIA EMAIL

Michael Gableman
Office of Special Counsel
200 South Executive Drive, Suite 101
Brookfield, WI 53005
coms@wispecialcounsel.org

Re: Public Records Law Request

Dear Office of Special Counsel and Michael Gableman:

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

On May 26, 2021, Wisconsin State Assembly Speaker Robin Vos indicated that the legislature would hire three former law enforcement officers and a supervising attorney to investigate the November 2020 election.¹ Since the time of this announcement, Speaker Vos has expanded the scope of the investigation, appointing former Wisconsin Supreme Court justice Michael Gableman as “special counsel,” and gaining Assembly committee approval to form an Office of Special Counsel (OSC) and to spend at least \$676,000 in public funds, including budgeting for five investigators and \$325,000 for a data analysis contractor.² On October 1, the Assembly authorized subpoenas on Gableman's behalf, seeking interviews with state and local elections officials as well as information regarding external grants donated to fund municipal elections in five

¹ Patrick Marley, *Top Wisconsin Republican Robin Vos Hires Former Cops to Investigate November Election*, Milwaukee J. Sentinel (updated May 26, 2021, 5:16 PM), <https://www.jsonline.com/story/news/politics/elections/2021/05/26/wisconsin-republican-robin-vos-hires-ex-cops-investigate-election/7455034002/>.

² Scott Bauer, *Wisconsin Election Probe Includes \$325,000 for Data Analysis*, Associated Press (Sept. 1, 2021), <https://apnews.com/article/technology-business-elections-wisconsin-election-2020-f0341f70bb123e809304771ed0c0b909>; Laurel White, *Republican Lawmakers Approve Former Conservative Justice as Head of 2020 Election Investigation*, Wis. Public Radio (Aug. 30, 2021), <https://www.wpr.org/republican-lawmakers-approve-former-conservative-justice-head-2020-election-investigation>



Wisconsin cities.³ Gableman has since issued additional demands to the mayors of those cities.⁴

American Oversight seeks records with the potential to shed light on the Wisconsin Assembly's investigation of the November 2020 election, including regarding the role and activities of contractors who are performing work in furtherance of that investigation.

Requested Records

American Oversight requests that your office produce the following records “as soon as practicable and without delay”:⁵

- A. All electronic communications (including emails, email attachments, text messages, or messages on messaging platforms, such as Slack, Google, Lync, Skype, or WhatsApp) between (i) Michael Gableman or anyone communicating on his or the OSC's behalf and (ii) any of the individuals or entities listed below, including, but not limited to at the suggested email addresses or domains. In the case of emails and texts, the search should include those sent or received from the specified officials' personal accounts and/or devices if they were used to conduct official business, as well those sent from their official email addresses or government-issued devices.

For Part A of this request, please provide all responsive records from August 12, 2021, through the date the search is conducted.⁶

³ Molly Beck and Patrick Marley, *Republicans Issue Subpoenas to Elections Commission Head and Five Cities As Partisan Review of 2020 Heats Up*, Milwaukee J. Sentinel (updated Oct. 1, 2021, 5:36 PM),

<https://www.jsonline.com/story/news/politics/elections/2021/10/01/michael-gableman-issues-subpoenas-for-wisconsin-election-records/5947072001/>.

⁴ Molly Beck & Patrick Marley, *GOP Attorney Michael Gableman Says He Will Force Officials to Sit for Interviews, a Day After Calling Off His Subpoenas*, Milwaukee J. Sentinel (updated Oct. 8, 2021, 3:54 PM),

<https://www.jsonline.com/story/news/politics/elections/2021/10/08/republican-attorney-michael-gableman-says-he-force-officials-sit-for-2020-election-interviews/6053691001/>.

⁵ Wis. Stat. § 19.35(4)(a).

⁶ To be clear, Part A of this request seeks the records substantively described in American Oversight's request identified as WI-EXT-21-1127, directed to Michael Gableman, from the period after that request was submitted—*i.e.*, from August 12, 2021, through the date of the search—with modifications to account for recent events (including newly identified information regarding particular entities and to eliminate certain communications counterparties specified in the previous request). *See* <https://www.americanoversight.org/document/public-records-request-to-contractor-michael-gableman-seeking-communications-regarding-election-investigation>.

Specified Entities:

1. 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
 2. Representative Janel Brandtjen (including, but not limited to, janel@brandtjen.com, janel@glmarketing.com, and rep.brandtjen@legis.wisconsin.gov), or her aides Bill Savage or Melodie Duesterbeck
 3. Wisconsin State Representative Joe Sanfelippo, or his aides Dominik Kolodziejczyk or Joshua Hoisington
 4. Representative Shae Sortwell, or his aide Sulamita Barbiyeru
 5. Representative Timothy Ramthun, or his aides Tristan Johannes or Jared Heckman
 6. Anyone communicating from an email address ending in @legis.wisconsin.gov
 7. Wisconsin Elections Commissioner Bob Spindell (robert.spindell@wisconsin.gov, cd4.chairman@wisgop.info and rspindell@gottesmancompany.com)
 8. 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
 9. Paul Farrow, Gerard Randall, Katie McCallum, Maripat Krueger, or anyone communicating on behalf of the Republican Party of Wisconsin (@wisgop.org or @wisgop.info)
 10. Phill Kline (phillklineva@gmail.com), Jacqueline Timmerman, or anyone communicating on behalf of America's Voter Alliance (@got-freedom.org)
 11. 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)
 12. Ron Heuer (including, but not limited to ronheuer@gmail.com) or anyone communicating on behalf of the Wisconsin Voters' Alliance
 13. 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)
 14. 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)
- B. All electronic communications (including emails, email attachments, text messages, or messages on messaging platforms, such as Slack, GChat or Google Hangouts, Lync, Skype, or WhatsApp) between (i) Michael

Gableman or anyone communicating on his or the OSC's behalf and (ii) any of the additional individuals or entities listed below, including, but not limited to at the suggested email addresses or domains. As in Part A, in the case of emails and texts, the search should include those sent or received from the specified officials' personal accounts and/or devices if they were used to conduct official business, as well those sent from their official email addresses or government-issued devices.

For Part B of this request, please provide all responsive records from June 1, 2021, through the date the search is conducted.

Additional Specified Entities:

1. Reince Priebus, or anyone communicating on behalf of Michael Best & Friedrich LLP (@michaelbest.com)
2. Andrew Kloster
3. Jim Troupis (jtroupis@hotmail.com), or anyone communicating on behalf of Troupis Law Office
4. Michael D. Dean (miked@michaelddeanllc.com)
5. Daniel Eastman, or anyone communicating from an email address ending in @attorneyeastman.com
6. Kurt Olsen
7. Erick Kaardal, or anyone communicating on behalf of Mohrman, Kaardal & Erickson, P.A. (@mklaw.com)
8. Wisconsin Gubernatorial Candidate Rebecca Kleefisch
9. Harry Wait (harrytrex@gmail.com or hotgovernment@gmail.com) or anyone communicating on behalf of Honest, Open, and Transparent Government
10. Arizona Senator Karen Fann (kfann@azleg.gov fannm@cableone.com, or karenfann@outlook.com), Senator Sonny Borrelli (sborrelli@azleg.gov, sonnyborrelli@hotmail.com, or sonny4ld5@hotmail.com), Representative Mark Finchem (mfinchem@azleg.gov or markfinchem@me.com), or anyone communicating on behalf of the Arizona Legislature (@azleg.gov)
11. Former Arizona Secretary of State Ken Bennett (kbennettaz7@gmail.com, kbazos@gmail.com, kjbennettaz@gmail.com, or arizonaaudit@gmail.com)
12. Randy Pullen (rpullen13@gmail.com)
13. Pennsylvania Senators Doug Mastriano, Dave Argall, or Cris Dush, or anyone communicating on behalf of the Pennsylvania State Senate (@pasen.gov)
14. Matthew DePerno, or anyone communicating on behalf of DePerno Law Office (@deper nolaw.com)
15. Patrick Byrne, Mike Roman (mikeroman@protonmail.com) or anyone communicating on behalf of the America Project (@americaproject.com)
16. Al Hartman, Jenny Limcher, or anyone communicating on behalf of Hartman REIT (@hartman-reit.com)
17. Lin Wood, or anyone communicating from an email address ending in @fightback.law

18. Ivan Raiklin (ivan.raiklin@gmail.com or socialmediaraiklin@gmail.com)
19. Raj Doraisamy, Caroline Wetherington, or anyone communicating on behalf of Defend Wisconsin or Defend Our Union (@defendourunion.org)
20. Mike Flynn, or anyone communicating from an email address ending in @generalflynn.com, or anyone communicating on behalf of America's Future (@americasfuture.net)
21. Cleta Mitchell (cleta@cletamitchell.com or cmitchell@foley.com), or anyone communicating on behalf of the Bradley Foundation (@bradleyfdn.org)
22. Ed Corrigan, or anyone communicating on behalf of the Conservative Partnership Institute (@cpi.org)
23. Thomas Datwyler (tcdatwyler@gmail.com)
24. John Eastman (jeastman@claremont.org)
25. Hogan Gidley, Kenneth Blackwell (kennethblackwell693@gmail.com), or anyone communicating on behalf of America First Policy Institute (@americafirstpolicy.com)
26. Doug Logan, or anyone communicating on behalf of Cyber Ninjas (@cyberninjas.com)
27. Ben Cotton, or anyone communicating on behalf of CyFir (@cyfir.com)
28. 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)
29. Jovan Hutton Pulitzer (jovanhuttonpulitzer@gmail.com)
30. Shiva Ayyadurai (vashiva@vashiva.com), or anyone communicating on behalf of EchoMail (@echomail.com)

Please note that for both Parts A & B of this request, 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 Michael Gableman received a mass-distribution news clip email from the Wisconsin Republican Party, that initial email would not be responsive to this request. However, if he forwarded that email to another individual with his own commentary, that subsequent message would be responsive to this request and should be produced.

This request seeks records in addition to, and not duplicative of, records previously sought by American Oversight. In all cases, responsive records include records that were “produced or collected” under any contract entered by Speaker Vos and/or the Wisconsin Assembly.⁷

⁷ Wis. Stat. Ann. § 19.36(3) (“Each authority shall make available for inspection and copying under s. 19.35(1) any record produced or collected under a contract entered into by the authority with a person other than an authority to the same extent as if the record were maintained by the authority.”).

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.⁸ American Oversight also makes materials it gathers available on its public website⁹ and promotes their availability on social media platforms, such as Facebook and Twitter.¹⁰

The public has a significant interest in the Wisconsin Assembly’s investigation of the November 2020 election.¹¹ Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including the role of contractors in conducting the Assembly’s investigation. 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

⁸ 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>.

⁹ *Documents*, American Oversight, <https://www.americanoversight.org/documents>.

¹⁰ American Oversight currently has approximately 15,630 page likes on Facebook and 108,500 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Oct. 13, 2021) American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Oct. 13, 2021).

¹¹ See *supra*, notes 1-5.

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 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.¹²

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.¹³ 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

¹² 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>.

¹³ Wis. Stat. § 19.36(6).

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