



January 13, 2022

VIA EMAIL

Nicole M. Hemminger
Chief Clerk/County Administrator
Blair County Courthouse
423 Allegheny Street, Suite 441A
Hollidaysburg, PA 16648
nhemminger@blairco.org

Re: Right-to-Know Law Request

Dear Open Records Officer:

Pursuant to the Right-to-Know Law (RTKL), as codified at 65 P.S. §§ 67.101 et seq., American Oversight makes the following request for records.

Following the November 2020 election, a number of county officials received communications from Pennsylvania legislators regarding unofficial election “audits.”¹

American Oversight seeks records with the potential to shed light on post-election reviews or investigations in Pennsylvania, including whether or to what extent such reviews or investigations were discussed between county officials and legislators.

Requested Records

American Oversight requests that your office produce the following records within five business days:

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

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 or among (A) Blair County Commissioners Amy Webster and/or Bruce Erb and (B) 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 devices if they were used to conduct official business, as well those sent from their

¹ Rosalind Helderman, ‘*It Was like This Rogue Thing:*’ How the Push by Trump Allies to Undermine the 2020 Results Through Ballot Reviews Started Quietly in Pennsylvania, Wash. Post (June 6, 2021, 6:00 PM), https://www.washingtonpost.com/politics/pennsylvania-2020-ballot-audits/2021/06/06/4e456952-bfe0-11eb-b26e-53663e6be6ff_story.html.



official email addresses or government-issued devices.

Specified Parties:

1. U.S. Representative Scott Perry, and/or anyone communicating on his behalf (such as his aides Lauren Muglia, Carol Wiest, and/or Patrick Schilling)
2. Sidney Powell, and/or anyone communicating on behalf of Sidney Powell, P.C. (@federalappeals.com)
3. Former National Security Advisor Mike Flynn (@generalflynn.com), and/or anyone communicating on behalf of America's Future (@americasfuture.net)
4. Ivan Raiklin (ivan.raiklin@gmail.com or socialmediaraiklin@gmail.com)
5. Velma Ann Ruth, Patrick Cabbage, Mark Still, and/or anyone communicating on behalf of Patriot Caucus (@patriot-caucus.com)
6. Cleta Mitchell (including, but not limited to, cleta@cletamitchell.com, cmitchell@foley.com, or email addresses ending in @bradleyfdn.org)
7. Jenna Ellis, and/or anyone communicating on behalf of Liberty University's Falkirk Center (falkirkcenter.com) or the American Greatness Fund (@americangreatnessfund.com)
8. Phill Kline (phillklineva@gmail.com), Erick Kaardal (kaardal@mklaw.com), and/or anyone communicating on behalf of the Thomas More Society (@thomasmoresociety.org) or The Amistad Project
9. Jacqueline Timmerman and/or anyone communicating on behalf of the American Voter's Alliance (@got-freedom.org)
10. Chris Witt, Earl Eugene Kern, and/or anyone communicating on behalf of Wake Technology Services, Inc. (@waketsi.com)
11. Jason Thompson, Steven Lahr, or anyone communicating on behalf of Envoy Sage
12. Heather Honey, Frank Honey, and/or anyone communicating on behalf of Haystack Investigations (@haystackinvestigations.com)
13. 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), J. Keet Lewis, and/or anyone communicating on behalf of Allied Security Operations Group (including anyone communicating from an email address ending in @alliedspecialops.us)
14. Rachel Zupanc (rzupanc@protonmail.com), Toni Shuppe (tshuppe@protonmail.com), Karen Taylor, and/or anyone communicating on behalf of Audit the Vote PA (@auditthevote.com)
15. Tabitha Valleau, Mike Altland, and/or anyone communicating on behalf of Free PA (freepa2020@outlook.com)
16. Thomas Breth, and/or anyone communicating on behalf of Dillon, McCandless, King, Coulter & Graham LLP (@dmkcg.com)
17. Linda Kerns, or anyone communicating on behalf of the Law Offices of Linda A. Kerns, LLC (@lindakernslaw.com)
18. Marc Scaringi, or anyone communicating on behalf of Scaringi Law (@scarinigilaw.com)
19. Andre McCoy (andremccoy@msn.com)
20. John Ferguson (john.ferguson@eprims.com)
21. Mike Roman (mike.roman@protonmail.com)
22. Scott Sigman (scott@scottsigman.com)

23. Mark Still (mark@pearlconsolidated.com)
24. Former U.S. Senate Candidate Sean Parnell
25. U.S. Senate Candidate Kathy Barnette
26. U.S. Senate Candidate Carla Sands
27. Al Hartman, Jenny Limcher, or anyone communicating on behalf of Hartman REIT (@hi-reit.com)
28. 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)
29. Anyone communicating on behalf of Public Interest Legal Foundation (@publicinterestlegal.org)
30. 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

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 one of the listed officials received a mass-distribution news clip email from One America News, that initial email would not be responsive to this request. However, if one of the listed officials forwarded that email to another individual with their own commentary, that subsequent message would be responsive to this request and should be produced.

Fee Waiver Request

In accordance with 65 P.S. § 67.1307(f)(2), American Oversight requests a waiver of fees associated with processing this request for records, because disclosure of the requested information is “in the public interest.”

The public has a significant interest in the results and administration of the November 2020 election in Pennsylvania.² Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including whether county officials were contacted by members of the Pennsylvania legislature or external entities regarding post-election reviews or investigations.

American Oversight is committed to transparency and makes the responses agencies provide to open 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’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

² See *supra*, notes 1 & 2.

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.³

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular substantive analyses posted to its website.⁴ Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records and analysis related to the organization’s investigations into misconduct and corruption in state governments;⁵ posting records and analysis of federal and state governments’ responses to the Coronavirus pandemic;⁶ posting records received as part of American Oversight’s “Audit the Wall” project to gather and analyze information related to the Trump administration’s proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;⁷ and the posting of records related to an ethics waiver received by a senior Department of Justice attorney and an analysis of

³ American Oversight currently has approximately 15,580 page likes on Facebook and 109,500 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Jan. 10, 2022); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Jan. 10, 2022).

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

⁵ See generally *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>; *Georgia’s Voting Machines and Election Security*, American Oversight, <https://www.americanoversight.org/investigation/georgias-voting-machines-and-election-security>.

⁶ See, e.g., *The Trump Administration’s Response to Coronavirus*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-response-to-coronavirus>; *Tulsa Health Officials Initially Estimated Trump Rally Would Directly Lead to 2 to 9 Deaths*, American Oversight, <https://www.americanoversight.org/tulsa-health-officials-initially-estimated-trump-rally-would-directly-lead-to-2-to-9-deaths>; *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>; *In the Documents: Florida Health Department Efforts to Suppress Release of Coronavirus Records*, American Oversight, <https://www.americanoversight.org/in-the-documents-florida-health-department-efforts-to-suppress-release-of-coronavirus-records>.

⁷ 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>.

what those records demonstrated regarding the Department's process for issuing such waivers.⁸

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:

- 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 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. Records of official business conducted

⁸ *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>.

using unofficial systems or stored outside of official files are subject to the Right-to-Know Law.⁹

- 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 under 65 P.S. § 67.706. 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 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

⁹ See, e.g., *Barkeyville Borough v. Stearns*, 35 A.3d 91, 95–97 (Pa. Commw. Ct. 2012).

understand any part of this request, please contact Zachery Morris at records@americanoversight.org or 202.539.6507.

Sincerely,

/s/ Zachery Morris
Zachery Morris
on behalf of
American Oversight