



May 9, 2022

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

In April 2022, Gableman traveled to Palm Beach, Florida, to the residence of former President Donald Trump, and attended a screening of a film titled “Rigged: The Zuckerberg Funded Plot to Defeat Donald Trump.”³ The film alleges that donations provided by the Chan Zuckerberg Initiative to the nonprofit organizations Center for

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>

³ Josh Dawsey, *Elections Claims Dominate Lively Night for Trump, Allies at Mar-a-Lago*, Wash. Post (Apr. 6, 2022, 12:29 AM), <https://www.washingtonpost.com/politics/2022/04/06/2020-election-claims-dominate-lively-night-trump-allies-mar-a-lago/>.



Tech and Civic Life (CTCL) and Center for Election Innovation and Research (CEIR) funded partisan get out the vote efforts and the expansion of mail-in voting or use of ballot drop boxes under the pretext of funding protective measures against coronavirus, leading President Joe Biden to gain a greater vote share in jurisdictions which accepted CTCL and CEIR funding, including in Wisconsin.⁴ Gableman states in the film, “the bait was to keep citizens safe from COVID, but then it switched -- it may very well have switched -- to a partisan get-out-the-vote effort on behalf of Joe Biden for the purpose of defeating Donald Trump.”⁵

These allegations mirror claims made in the OSC’s Second Interim Report⁶ and by Gableman and others during a March 1, 2022, hearing before the Assembly Committee on Campaigns and Elections.⁷ The former president personally thanked Gableman for his efforts at the film’s screening, saying, “Michael, you’ve been unbelievable.”⁸

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 and their connections to activists promoting the “debunked” theory⁹ that the 2020 presidential election was “rigged.”¹⁰

⁴ Philip Bump, ‘Ballot Trafficking,’ is the Next Front in the Unending Fight over 2020, Wash. Post (Apr. 6, 2022, 1:20 PM), <https://www.washingtonpost.com/politics/2022/04/06/ballot-trafficking-is-next-front-unending-fight-over-2020/>; Hannah Bleau, *Documentary Blows the Lid off the \$400 Million Zuckerberg Effort to Elect Biden*, Breitbart, Mar. 31, 2022, <https://www.breitbart.com/politics/2022/03/31/documentary-blows-the-lid-off-the-400-million-zuckerberg-effort-to-elect-biden/>.

⁵ Molly Beck, *On Steve Bannon Podcast, Michael Gableman Appeals to Trump Supporters for Help Keeping the Doors Open on His Wisconsin Election Review*, Milwaukee J. Sentinel (updated Apr. 8, 2022, 8:08 PM), <https://www.jsonline.com/story/news/politics/elections/2022/04/08/gableman-appeals-trump-backers-help-keep-wisconsin-election-review-alive-steve-bannon/9509305002/>.

⁶ Office of the Special Counsel, *Second Interim Investigative Report on the Apparatus & Procedures of the Wisconsin Elections System*, Mar. 1, 2022, <https://legis.wisconsin.gov/assembly/22/brandtjen/media/1552/osc-second-interim-report.pdf>.

⁷ Patrick Marley & Molly Beck, *Gableman Report to Wisconsin Republicans Promotes Legally Debunked Effort to Decertify 2020 Election*, Milwaukee J. Sentinel (updated Mar. 1, 2022, 5:27 PM), <https://www.jsonline.com/story/news/politics/2022/03/01/gableman-report-promotes-legally-debunked-effort-decertify-election/9319277002/>.

⁸ See Dawsey, *supra* note 3.

⁹ See Marley & Meck, *supra* note 7.

¹⁰ See Dawsey, *supra* note 3.

Requested Records

American Oversight requests that your office produce the following records “as soon as practicable and without delay”:¹¹

- A. All records reflecting communications (including emails, email attachments, text messages, messages on messaging platforms (such as Slack, GChat or Google Hangouts, Lync, Skype, or WhatsApp), telephone call logs, calendar invitations, calendar entries, meeting notices, meeting agendas, informational material, talking points, any handwritten or electronic notes taken during any oral communications, summaries of any oral communications, or other materials) regarding the April 2022 trip made by Michael Gableman to Palm Beach, Florida, including, but not limited to:
 1. Records reflecting communications between Gableman or any accompanying individuals and former President Donald Trump or anyone communicating on his behalf, or communications with attendees, participants, or organizers of the screening of “Rigged: The Zuckerberg Funded Plot to Defeat Donald Trump,” or other individuals present at Mar-a-Lago resort.
 2. Records reflecting communications between Gableman or any accompanying individuals and any other individuals regarding the content of the trip, including, but not limited to, the Wisconsin state legislature, its agents or intermediaries, representatives of the Office of Special Counsel, or other individuals or entities associated with the investigation led by Gableman.
- B. Any handouts, agenda, summaries, or notes provided to Gableman or any accompanying individuals as part of his trip to Palm Beach, Florida, including but not limited to: (A) electronic or hard-copy records provided by attendees, participants, or organizers of the film screening, or other individuals present at Mar-a-Lago resort, or (B) formal or informal notes, descriptions, or analyses of the event created by Gableman or any accompanying individuals.
- C. Records reflecting the expenses and costs incurred by the Wisconsin Assembly or Office of Special Counsel related to Gableman’s trip to Palm Beach, Florida.

To the extent your office has aggregated records sufficient to show all relevant expenses and costs, such as spreadsheets, American Oversight would accept production of such records as sufficient. To the extent your office does not have an aggregated record of these costs, American Oversight requests records reflecting those costs, such as receipts, invoices, charge card or credit card statements, and reimbursement requests.

¹¹ Wis. Stat. § 19.35(4)(a).

Relevant expenses may include, but are not limited to, hotel or other lodging costs; costs for air travel, rental car, or other transportation companies; costs incurred for government transportation; the cost of meals or refreshments; and diem payments.

Relevant expenses include costs associated with Gableman's travel, as well as that of any staff member or other individuals travelling with him.

For Parts A-C of this request, please provide all responsive records from March 1, 2022, through the date the search is conducted.

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.¹² American Oversight also makes materials it gathers available on its public

¹² 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>.

website¹³ and promotes their availability on social media platforms, such as Facebook and Twitter.¹⁴

The public has a significant interest in the Wisconsin Assembly's investigation of the November 2020 election.¹⁵ 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 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.¹⁶

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.¹⁷ If it is your position that a document contains non-exempt

¹³ *Documents*, American Oversight, <https://www.americanoversight.org/documents>.

¹⁴ American Oversight currently has approximately 15,730 page likes on Facebook and 118,100 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Apr. 19, 2022) American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Apr. 19, 2022).

¹⁵ *See supra*, notes 1-4.

¹⁶ 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>.

¹⁷ Wis. Stat. § 19.36(6).

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 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