



March 23, 2023

VIA EMAIL

Cochise County Attorney
Attn: Molly McCarty
P.O. Drawer CA
Bisbee, AZ 85603
mmccarty@cochise.az.gov
dlohse@cochise.az.gov

Cochise County Recorder
1415 Melody Lane
Building B
Bisbee, AZ 85603
recorder@cochise.az.gov

Re: Public Records Request

Dear Public Records Officers:

Pursuant to the Arizona Public Records Law, A.R.S. §§ 39-121 et seq., American Oversight makes the following request for records.

Public reporting has indicated that the Cochise County Board of Supervisors voted to give Recorder David Stevens control over the county's elections through 2024.¹ The Arizona Attorney General's Office suggested that the transfer of responsibility may be illegal. American Oversight is seeking records related to Stevens' new responsibilities and any efforts to reform Cochise County's election processes.

Requested Records

American Oversight requests that the Cochise County Recorder promptly produce the following records:

Please provide all responsive records from January 1, 2023, through the date the search is conducted.

1. All email communications (including emails, complete email chains, calendar invitations, and attachments thereto) between (a) Cochise County Recorder

¹ *Arizona County Board Votes to Give Recorder Election Duties*, Associated Press (Feb. 28, 2023), <https://apnews.com/article/elections-conspiracies-arizona-0cf783608e43bcfe8ec1f3498d0097ae>.



David Stevens, and (b) any of the entities or individuals listed below (including, but not limited to, at the listed email addresses and domains).

Specified Entities and Individuals:

- i. Any member or staff of the Arizona Legislature (azleg.gov)
- ii. Anyone communicating on behalf of the Election Fairness Institute (electionfairnessinstitute.org or GoEFI.org)
- iii. Arizona Representative Mark Finchem (markfinchem@me.com, markfinchem@protonmail.com)
- iv. Arizona Senator Karen Fann (karenefann@outlook.com, fannm@cableone.net)
- v. Arizona Senator Kelly Townsend (kellyjtownsend@yahoo.com, kune_fish@yahoo.com)
- vi. Kari Lake (karilake.com)
- vii. Mike Lindell (mike@mypillow.com), Michele Replogle (micrep@protonmail.com, micrep@pm.me), or anyone communicating from an email address ending in mypillow.com
- viii. Matthew DePerno (matthew@depernolaw.com)
- ix. Emily Newman (enewman@protonmail.com)
- x. Patrick Byrne, Mike Roman (mikeroman@protonmail.com), or anyone communicating on behalf of the America Project (theamericaproject.com)
- xi. Joe Oltmann (joe@fecunited.com, joe@pinbn.com)
- xii. Neal Schuerer (neal@pathreform.org, nschuerer@outlook.com)
- xiii. Former Arizona GOP Chair Kelli Ward (kelli@kelliward.com, drkelliward@gmail.com)
- xiv. David Clements (davidkclements13@protonmail.com, dkc@theprofessorsrecord.com)
- xv. Erin Hughs (erin.hughs@yahoo.com)
- xvi. Ivan Raiklin (ivan@raiklin.com, ivan.raiklin@gmail.com)
- xvii. Jovan Hutton Pulitzer (jovanhuttonpulitzer@gmail.com)
- xviii. Doug Frank (drdougglasgfrank@outlook.com, drdougglasfrank@protonmail.com)
- xix. Kurt Olsen (kurtols@protonmail.com)
- xx. Phil Waldron (phil@onewarrior.com, p@bonfiresearch.org), or anyone communicating from an email address ending in onewarrior.com or bonfiresearch.org
- xxi. Russell Ramsland (ryuks9sq@alliedspecialops.us, yrku9sqs@protonmail.com), or anyone communicating from an email address ending in alliedspecialops.us
- xxii. Seth Keshel (skeshel@protonmail.com, skeshel@gmail.com, bookings@captk.com)
- xxiii. Shawn Smith (luftsas@gmail.com, ratioinvictus@protonmail.com)
- xxiv. Shiva Ayyadurai (vashiva@vashiva.com)
- xxv. Todd Sanders (todd@krknsys.com, todd@americaproject.com, t@bonfiresearch.org), or anyone communicating from an email address ending in americaproject.com

- xxvi. Catherine Engelbrecht, or anyone communicating on behalf of True the Vote (truethevote.org)
- xxvii. Doug Logan, or anyone communicating on behalf of Cyber Ninjas (cyberninjas.com)

For part 1 of this request, 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 Recorder Stevens received a mass-distribution news clip email from the Arizona Legislature, that initial email would not be responsive to this request. However, if Stevens forwarded that email to one of the specified entities and individuals above with his own commentary, that subsequent message would be responsive to this request and should be produced.

- 2. All text messages or messages on messaging platforms (such as Slack, GChat or Google Hangouts, Lync, Skype, Twitter direct messages, Facebook Messenger, WhatsApp, Signal, Telegram, or Parler) between (a) Recorder David Stevens, and (b) any of the individuals listed below.

Individuals:

- | | |
|--|-----------------------------|
| i. Arizona Representative Mark Finchem | xiii. Neal Schuerer |
| ii. Arizona Senator Karen Fann | xiv. David Clements |
| iii. Arizona Senator Kelly Townsend | xv. Erin Hughs |
| iv. Arizona GOP Chair Kelli Ward | xvi. Ivan Raiklin |
| v. Kari Lake | xvii. Jovan Hutton Pulitzer |
| vi. Mike Lindell | xviii. Doug Frank |
| vii. Michele Replogle | xix. Kurt Olsen |
| viii. Matthew DePerno | xx. Phil Waldron |
| ix. Emily Newman | xxi. Russell Ramsland |
| x. Patrick Byrne | xxii. Seth Keshel |
| xi. Mike Roman | xxiii. Shawn Smith |
| xii. Joe Oltmann | xxiv. Shiva Ayyadurai |
| | xxv. Todd Sanders |
| | xxvi. Catherine Engelbrecht |
| | xxvii. Doug Logan |

- 3. All email communications (including emails, email attachments, calendar invitations, and calendar invitation attachments) and text messages sent or received by Recorder David Stevens, containing any of the search terms listed below.

Search Terms:

- | | |
|---------------------|----------------------|
| i. "Hand count" | iv. "Manual count" |
| ii. Handcount | v. "Manual recount" |
| iii. "Hand recount" | vi. "Manually count" |

- | | | | |
|-------|--------------------|--------|-------------------|
| vii. | “Manually recount” | xvi. | De-certification |
| viii. | Certify | xvii. | Mayes |
| ix. | Certifying | xviii. | Attorney General |
| x. | Certification | xix. | AG |
| xi. | Decertify | xx. | Bendor |
| xii. | Decertifying | xxi. | Solicitor General |
| xiii. | Decertification | xxii. | SG |
| xiv. | De-certify | xxiii. | Finchem |
| xv. | De-certifying | | |

For part 3 of this request, 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 Recorder Stevens received a mass-distribution news clip email containing the search term “certification”, that initial email would not be responsive to this request. However, if Stevens forwarded that email to another individual with his own commentary, that subsequent message would be responsive to this request and should be produced.

4. All application materials (including, but not limited to, cover letters, references, and curriculum vitae) in possession of the Cochise County Recorder concerning any individual who submitted an application for consideration to become the county’s permanent elections director or is otherwise under consideration for the role.

For part 4 of this request, please note that American Oversight does not seek, and that this request specifically excludes, the production of personally identifiable information that is exempt from disclosure under Arizona law.

Statement of Noncommercial Purpose

This request is made for noncommercial purposes. American Oversight seeks records regarding efforts to alter Cochise County’s election processes.² 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 Recorder David Stevens coordinated with external entities or individuals to reform Cochise County’s elections.

Because American Oversight is a 501(c)(3) nonprofit, this request is not in American Oversight’s financial interest and is not made for a commercial purpose. 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.

² Jen Fifield, *How an Arizona Official is Making Cochise County a ‘Laboratory’ for Election Skepticism*, Votebeat (Feb. 7, 2023, 4:54PM), <https://arizona.votebeat.org/2023/2/7/23589804/cochise-county-elections-recorder-david-stevens-hand-count>.

American Oversight uses the 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.³

Because this request is made for noncommercial purposes, American Oversight requests that any fees charged in connection with processing this request be limited to copying and postage charges, if applicable.⁴ Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fees.

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

³ American Oversight currently has approximately 16,000 followers on Facebook and 102,600 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Mar. 22, 2023); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Mar. 22, 2023).

⁴ A.R.S. § 39-121.01(D)(1); *see also Hanania v. City of Tucson*, 128 Ariz. 135, 624 P.2d 332 (Ct. App. 1980). Furthermore, because this request is for noncommercial purposes, additional fees provided for under A.R.S. § 39-121.03(A) are not applicable and should not be assessed.

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.
- If any records are withheld in full or in part, pursuant to A.R.S. § 39-121.01(D)(2), please provide an index of records or categories of records that have been withheld and the reasons the records or categories of records have been withheld.
- 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. 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

understand any part of this request, please contact Ben Sparks at records@americanoversight.org or (202) 873-1741.

Sincerely,

/s/ Ben Sparks
Ben Sparks
on behalf of
American Oversight