



November 4, 2022

VIA EMAIL

Cochise County Attorney
Attn: Dawn Gonzales
P.O. Drawer CA
Brisbee, AZ 85603
tjohnson@cochise.az.gov
dtownsend@cochise.az.gov

Re: Public Records Request

Dear Public Records Officer:

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

On October 24, 2022, the Cochise County Board of Supervisors voted to require a full hand recount of ballots submitted during the 2022 General Election. The vote came amid warnings of legal consequences from Arizona's State Elections Services Director and a state lawmaker.¹ The Board of Supervisors later backtracked on their vote and opted to expand the state-prescribed hand counted audit.² Arizona Attorney General Brnovich then issued an advisory opinion indicating that county officials could hand count all ballots in up to five races causing members of the Board of Supervisors to push for an expansion of the hand count.³ American Oversight seeks records with potential to shed light on the ongoing developments regarding Cochise County's ballot hand counts.

¹ Sarah Lapidus, *Despite Warnings of Legal Consequences, Cochise County Supervisors Vote for Hand Count of Ballots*, *Ariz. Republic* (Oct. 25, 2022, 4:17 PM),

<https://www.azcentral.com/story/news/politics/elections/2022/10/24/arizona-cochise-county-supervisors-approve-hand-count-election-ballots/10593843002/>.

² Jen Fifield, *Arizona County Backtracks on Proposal for Full hand-Count of Ballots in Midterm Election*, *Votebeat* (Oct. 27, 2022, 10:17 AM),

<https://arizona.votebeat.org/2022/10/26/23425841/cochise-county-hand-counting-ballots-audit>.

³ Bob Christie, *Arizona AG Gives County OK for Full Ballot Hand Counts*, *Associated Press*, Oct. 29, 2022, <https://apnews.com/article/2022-midterm-elections-arizona-voting-phoenix-0480b41258d2ef50c25c87dae648ac23>.



Requested Records

American Oversight requests that the Cochise County Board of Supervisors promptly produce the following records:

1. All email communications (including emails, email attachments, calendar invitations, and calendar invitation attachments) and text messages between (a) County Supervisor Tom Crosby, County Supervisor Ann English, or County Supervisor Peggy Judd, and (b) any of the external parties listed below (including, but not limited to, at the listed email addresses and domains).

External Parties:

- a. Anyone communicating from an email address ending in americaproject.com or theamericaproject.com
 - b. Ann Nieman, or anyone communicating from an email address ending in foramericafirst.com, azforamericafirst.com, or azfet.us
 - c. Catherine Engelbrecht, Chelsea Magee, or anyone communicating from an email address ending in truethevote.org
 - d. David Clements (davidkclements13@protonmail.com)
 - e. Doug Frank (drdouglasfrank@protonmail.com or drdouglasfrank@outlook.com)
 - f. Erin Clements (née Hughs) (erin_hughs@yahoo.com)
 - g. Lisa “Draza” Smith (drazasmith@protonmail.com, drazasmith@gmail.com, ladydraza@gmail.com, or ladydraza@yahoo.com)
 - h. Gregg Phillips (gregg@opsec.group or gregg@patriotgames.com) or anyone communicating from an email address ending in opsec.group)
 - i. Jacqueline Timmer, or anyone communicating from an email address ending in got-freedom.org or americanvotersalliance.org
 - j. Jeff O’Donnell (loneraccoon@protonmail.com) or anyone communicating from an email address ending in ordros.com
 - k. Kelli Ward (drkelliward@gmail.com or kelli@kelliward.com)
 - l. Luis Cornelio (luis.cornelio@protonmail.com or lcornel001@citymail.cuny.edu)
 - m. Michele Replogle (micrep@pm.me or micrep@protonmail.com)
 - n. Phill Kline (phillklineva@gmail.com)
 - o. Seth Keshel (skeshel@protonmail.com or skeshel@gmail.com)
 - p. Shelby Busch (wethepeopleaz@protonmail.com, shelbywpaa@protonmail.com, or shelby.b@libertyunitedcoalition.com)
 - q. Thomas Brechja, Andrew Bath, Tim Griffin, or anyone communicating from an email address ending in thomasmoresociety.org
2. All email communications (including emails, email attachments, calendar invitations, and calendar invitation attachments) and text messages between (a) County Supervisor Tom Crosby, County Supervisor Ann English, or

County Supervisor Peggy Judd, and (b) any of the Arizona state legislators or legislative staff listed below (including, but not limited to, at the listed email addresses and domains).

State Legislators and Legislative Staff:

- a. Representative Mark Finchem (mfinchem@azleg.gov, markfinchem@protonmail.com, or markfinchem@me.com)
 - b. April Riggins, Administrative Assistant to Representative Finchem (ariggins@azleg.gov)
 - c. Representative Jake Hoffman (jake.hoffman@azleg.gov)
 - d. Senator Karen Fann (kfann@azleg.gov, fannm@cableone.net, karenefann@outlook.com)
 - e. Andrew Yoxall, Administrative Assistant to Senator Fann (ayoxall@azleg.gov)
 - f. Sawyer Bessler, Administrative Assistant to Senator Fann (sbessler@azleg.gov)
 - g. Senator Rick Gray (rgray@azleg.gov, rick.gray@cox.net)
 - h. Jenn Dickey, Administrative Assistant to Senator Gray (jdickey@azleg.gov)
 - i. Senator Vince Leach (vleach@azleg.gov, vwleach@gmail.com)
 - j. Galen Kimmick, Administrative Assistant to Senator Leach (gkimmick@azleg.gov)
 - k. Senator Sonny Borrelli (sborelli@azleg.gov, sonnyborrelli@hotmail.com, sonny4ld5@hotmail.com, or sonny4lhc@hotmail.com)
 - l. Phyllis Geivilin, Administrative Assistant to Senator Borrelli (pgeivilin@azleg.gov)
 - m. Senator Kelly Townsend (ktownsend@azleg.gov, kellyjtownsend@yahoo.com, kune_fish@yahoo.com)
 - n. Cynthia Tsaousidis, Administrative Assistant to Senator Townsend (ctsaousidis@azleg.gov)
 - o. Senator David Gowan (dgowan@azleg.gov, davidgowan1@cox.net, gowanforaz@gmail.com, senseicd1@gmail.com)
 - p. Sarah Griffith, Administrative Assistant to Senator Gowan (sgriffith@azleg.gov)
 - q. Senator Gail Griffin (ggriffin@azleg.gov)
 - r. Stacey Farrell, Administrative Assistant to Senator Griffin (sfarrell@azleg.gov)
3. All email communications (including emails, email attachments, calendar invitations, and calendar invitation attachments) and text messages between (a) County Supervisor Tom Crosby, County Supervisor Ann English, or County Supervisor Peggy Judd, and (b) anyone communicating on behalf of the Arizona Attorney General's Office (including, but not limited to, anyone communicating from an email address ending in azag.gov)
 4. All email communications (including emails, email attachments, calendar invitations, and calendar invitation attachments) containing any of the key

terms listed below sent by (a) County Supervisor Tom Crosby, County Supervisor Ann English, or County Supervisor Peggy Judd, to (b) to any email address ending in .com, co., .us, .net, .org, .mail, .edu, .me, or .law.

Search Terms:

- | | |
|---------------------|-------------------------|
| i. "hand count" | v. "manual recount" |
| ii. handcount | vi. "manually count" |
| iii. "hand recount" | vii. "manually recount" |
| iv. "manual count" | |

In an effort to accommodate Cochise County and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited item 4 of its request to emails sent by the county supervisors. To be clear, however, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means, for example, that both a response email containing the term "hand count" sent by Supervisor Tom Crosby to an individual with an email address ending in .com and the initial received message are responsive to this request and should be produced.

5. All texts messages sent or received by County Supervisor Tom Crosby, County Supervisor Ann English, or County Supervisor Peggy Judd containing any of the search terms listed above.

To be clear, American Oversight requests that full text message threads/conversations be produced. For example, if Supervisor Tom Crosby sent a text message containing the term "hand count," the complete thread/conversation spanning one day prior to the sending of the text message through one day following the sending of the text message should be produced, and not just the message containing the key term.

Please provide all responsive records from October 1, 2022, through the date the search is conducted.

Statement of Noncommercial Purpose

This request is made for noncommercial purposes. American Oversight seeks records regarding the county's attempt to defy state election officials. 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 county officials discussed the hand count proposal with external parties.

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.

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.⁴

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.⁵ 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..
- 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.

⁴ American Oversight currently has approximately 16,000 followers on Facebook and 117,000 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Nov. 4, 2022); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Nov. 4, 2022).

⁵ 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.

- 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 Khahilia Shaw at records@americanoversight.org or (202) 539-6507.

Sincerely,

/s/ Khahilia Shaw
Khahilia Shaw
on behalf of
American Oversight