



City Clerk's Office

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We exist to assist.

December 7, 2023

Ned Jones, Deputy Director
Election Integrity Network
Virginia Institute for Public Policy
ned@electionintegrity.network

Dear Ned Jones:

Thank you for your request for public records dated October 16, 2023, for correspondence between any employee in the Madison Clerk's Office and employees from The Center for Tech and Civic Life from January 1, 2023 to present. Our office sent an initial reply via email on October 17, 2023 stating we had received your request and would be in touch with updates and/or records. We reached out again via email on October 17, 2023 to ask for names of employees from The Center for Tech and Civic Life, as we would have no idea who may or may not be considered an employee. We received your reply via email on October 19, 2023 that included actual employee names: Whitney May, Sophie Lehman, Tiana Epps-Johnson, and Keara Mendez along with the request to include any emails with the domain @techandcivicliflife.org.

A search was conducted and we updated you via email on 10/20/23 that there were approximately 260 emails that met your criteria. An additional 50 emails were uncovered and added to the search results. We updated you via email reply on 11/1/23. All email communications were reviewed to determine relevancy and on 11/6/23, we sent the file to the City Attorney's office to determine if any needed to be withheld for attorney-client privilege and/or confidentiality. Once the Attorney's office was done with their review, a final review of all documents was required for possible redaction requirements.

Redaction review began 11/9/23 as provided in another email update sent that same day. We were still redacting and adding all the attachments when we sent another email update on 11/20/23. At that time we had a total of approximately 500 pages of records for you. With the most recent email update on 12/5/23, we informed you we were nearly finished. This letter serves as the final update.

There were seven (7) emails that the Attorney's Office withheld due to attorney/client privilege and three (3) emails that were withheld due to confidentiality. These emails related to the seeking of legal advice and the giving of such advice by members of the Office of the City Attorney. It is clearly contrary to the public's interest in having its key managers and officials receive candid, accurate and timely legal advice to publically disclose the contents of such communications. That is why nearly every jurisdiction recognizes the sanctity of attorney client communications. Section 905.03(2) of the Wisconsin Statutes provides that "[a] client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the

purpose of facilitating the rendition of professional legal services to the client: between the client or the client's representative and the client's lawyers.....". Therefore, these ten (10) communications between the City Attorney's Office and City staff have been withheld from disclosure.

There were 235 total emails relevant to the request criteria you provided. This translated to a total of 774 pages of communications. These pages included any attachments, which were noted for your convenience and immediately follow the original email communication they were attached to. All the communications have been placed together in a single PDF that we are providing along with this letter and final email update to you.

There were some email communications that required redactions such as those containing Zoom, Calendly, and Google Workspace account information, phone numbers for cell phones issued to polling places to connect the Chief Inspectors to the Clerk's Office, personal election official codes to access the Election Official software Modus, an Election Official's personal email address, and references to a personal cell phone number and personal email address of a member of the general public. There was also a personal photograph of no relevance to the request. These are all withheld under the public interest balancing test.

Regarding the Zoom, Calendly, and Google Workspace account information, disclosing that information would compromise the security and functionality of the systems used for virtual meetings as the same account information and meeting links are used for ongoing meetings with City vendors or partners. In addition, disclosing the personal Election Official codes for accessing their scheduling software, Modus, would compromise the security and functionality of the system used to store personnel information, including payroll information. In these cases, the public interest in securing technical and communication systems outweighs the public interest in providing the redacted information, especially when none of the redactions impact the substance of the communications that are provided in any way.

As to the cell phone numbers of cell phones issued to polling places on Election Day to connect the Chief Inspector with the Clerk's Office, the personal email addresses of an Election Official and member of the general public, and the personal cell phone number of a member of the general public that we redacted, the City believes the public interest in not disclosing that information outweighs the public benefit in providing that information. The personal cell phone number was provided by an individual to assist in timely communication. Cell phone numbers are not generally available in a public directory and the phone number was never used by City staff. When cell phone numbers are not generally available to the public, the City believes that it would discourage the public's interaction with government by cell phones if those individuals were aware that their cell phone numbers would be released in response to a public records request. Especially in this case where the substance of the information is not affected by the redaction, the balancing test weighs in favor of redaction of the cell phone number.

You requested several different types of possible communications including but not limited to emails, letters, meeting notes, and call notes. What we could provide was email communications. Below is your list of other possible modes of communication and our response as to whether those records exist.

person conversations. Therefore, we have no records in this format responsive to this request.

- Email Correspondence: Records are being provided.

- Meeting Notes: Zoom meetings and the business conducted during them did not require meeting notes to be taken by our staff. Therefore, we have no records in this format responsive to this request.

- Call Notes: Telephone calls are not recorded so there are no records in that format responsive to this part of the request. Zoom meetings were hosted by employees of The Center for Tech and Civic Life and we had no ability to take call notes. Therefore, we have no records in this format responsive to this request.

Please note it will appear as if Attachment 51 is missing. Attachment numbers were assigned ahead of the redaction process and Attachment 51 was the personal photograph which ended up being withheld as it was purely personal and had no impact on the substance of the communication it was part of, as explained above. We kept with the Attachment numbering and simply removed Attachment 51 rather than renumber all remaining attachments. This also allowed us to finalize the records for you much quicker. We appreciate your understanding.

The City of Madison utilizes a Secure File Transfer Protocol (SFTP) folder for records that exceed file size limitations or when the number of files is large. This allows people safe and secure access to their public records. Please use the instructions below to access the secure site to locate your documents.

You will have one (1) week to review the records we have uploaded for you. You may view as many times as you would like or even download the information during this time. Some documents contained information that required redaction. We advised you of this above. All attachments have been numbered sequentially and noted, and will follow the original emails in which they were included. **The documents will be cleared on December 15, 2023 at 5PM (central time).**

To access, connect to our SFTP site using the link below. Simply click the link and look for the directory (folder) entitled "Election Integrity Network Open Records Request 101623". Click on the folder to access the single PDF file entitled "Final_Election Integrity_Redacted_120823".

Link:

<https://sftp.cityofmadison.com:443/ui/#/syncplify/share?N=2EixhLN7zWvAA68odGHjr8>

I hope that this letter is responsive to your request. To the extent that we must deny any of your request for records, please note that this decision is subject to review in an action for mandamus under Wis. Stat. § 19.37(1), or by application to the local district attorney or Attorney General. Please let me know if you need further information. Please let me know if you need further information.

Sincerely,

Jennifer Haar, WCMC
City Clerk's Office Records Custodian