AMERICAN OVERSIGHT

October 18, 2019

VIA ELECTRONIC MAIL

Hidalgo County Health and Human Services
1304 South 25th Ave
Edinburg, TX 78539
open.records@co.hidalgo.tx.us

Re: Public Information Request

Dear Public Information Officer:

Pursuant to the Texas Public Information Act, as codified at Tex. Code ch. 552, American Oversight makes the following request for public records.

Requested Records

Records reflecting reports of specified notifiable conditions made by or otherwise regarding the facilities identified below.

Notifiable Conditions	Facilities
▪ Influenza-associated pediatric mortality ▪ Influenza, novel ▪ Meningococcal infection ▪ Measles (rubeola) ▪ Mumps ▪ Rubella ▪ Tetanus ▪ Diphtheria ▪ Pertussis ▪ Hepatitis A ▪ Hepatitis B ▪ Poliomyelitis, acute paralytic ▪ Poliovirus infection, non-paralytic ▪ Tuberculosis	▪ Donna Soft-Sided Processing Facility (a/k/a Donna Holding Facility) 7801 International Blvd. Donna, TX 78537 ▪ U.S. Border Patrol McAllen Station (a/k/a McAllen Border Patrol Station) 3000 W. Military Highway, McAllen, TX, 78503 ▪ U.S. Border Patrol Central Processing Center (a/k/a Ursula Central Processing Center) 3700 W. Ursula Avenue, McAllen, TX 78503 ▪ U.S. Border Patrol Weslaco Station 1501 E. Expressway 83 Weslaco, TX 78596

This request includes copies of any infectious disease reports transmitted by mail, fax, or email, as well as any records of reports made by telephone. To the extent this information is aggregated and maintained in a database or spreadsheet, however, we would accept as responsive a printout from this database containing the following information fields:

- Disease or Condition
- Date
- Type of date: Onset, Absence, Specimen Collection, Office Visit
- Diagnostic Criteria
- Age
- Sex
- Notes, comments, additional information such as other lab tests/results, clinical info pregnancy status, occupation (food handler), school name/grade, travel history
- Name of Reporting Facility
- Name of Person Reporting
- Title
- Date of Report
- Status: Confirmed; Probable; Suspected; Dropped; Duplicate, with new information

American Oversight does not object to the redaction of names or other personally identifying information from records responsive to this request.

Please provide all responsive records from January 20, 2017, to the date the search is conducted.

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.**

In addition, American Oversight insists that the your agency use the most up-to-date technologies to search for responsive information and take steps to ensure that the most complete repositories of information are searched. American Oversight is available to work with you to craft appropriate search terms. **However, custodian searches are still required; governmental authorities may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.**

Please search all 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 a governmental

authority's officer or employee constitutes a record for purposes of the Texas Public Information Act.[1]

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

To ensure that this request is properly construed, that searches are conducted in an adequate but efficient manner, and that extraneous costs are not incurred, 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 electronic format by email or in PDF or TIF 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.

Fee Waiver Request

In accordance with Tex. Code § 552.267(a), American Oversight requests a waiver of fees associated with processing this request for records because such a waiver "is in the public interest because providing the copy of the information primarily benefits the general public." The public has a significant interest in whether and the extent to which government officials and contractors are taking necessary and appropriate steps to prevent, screen, diagnose, isolate, and treat infectious disease outbreaks among adults and children in their custody.[2] Records with the potential to shed

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[1] Tex. Code § 552.002(a-2); *see also Adkisson v. Paxton*, 459 S.W.3d 761, 773 (Tex. App. 2015).
[2] *See* Ltr. from Judy Melinek, et al. to Reps. Rosa DeLauro and Lucille Roybal-Allard, Aug. 1, 2019, https://delauro.house.gov/sites/delauro.house.gov/files/DeLauro_Roybal-Allard_Letter_DHS_HHS.pdf,Presentation by Jennifer A. Shuford, Infectious Disease Medical Officer, Tex. Dep't of State Health Servs. Infectious Diseases in Texas Detention Centers, https://hhs.texas.gov/sites/default/files/documents/about-hhs/communications-events/meetings-events/infectious-disease-detention-centers.pdf (noting that detention facility staff are "not trained

light on this life and death matter would contribute significantly to public understanding of government operations, including one of the government's most important responsibilities—the safety and care of the individuals it has detained and deprived of liberty.

Release of the requested records will primarily benefit the public.[3] As a 501(c)(3) nonprofit, American Oversight does not have a commercial purpose and the release of the requested records is not in American Oversight's financial interest, but is rather in the public interest. American Oversight is committed to transparency and makes the responses governmental authorities provide to public records requests publicly available. As noted, the subject of this request is a matter of public interest, and the public would benefit from an enhanced understanding of the government's activities 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 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] American Oversight has demonstrated its commitment to the public disclosure of documents and creation of editorial content. For example, after receiving records regarding an ethics waiver received by a senior United States Department of Justice (DOJ) attorney,[5] American Oversight promptly posted the records to its website and published an analysis of what the records reflected about DOJ's process for ethics waivers.[6] As another example, American Oversight has a project called "Audit the Wall," where the organization is gathering and analyzing information and commenting on public releases of information related to the administration's proposed construction of a barrier along the U.S.-Mexico border.[7] American Oversight similarly intends to engage with media outlets in Texas to ensure that the general public within the state has access to the information American Oversight obtains.

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to recognize infectious diseases," have "[n]o experience with notifiable conditions," and demonstrate a "[h]esitance to involve public health.").

[3] Tex. Code § 552.267(a).

[4] American Oversight currently has approximately 12,300 page likes on Facebook and 54,900 followers on Twitter. American Oversight, FACEBOOK, https://www.facebook.com/weareoversight/ (last visited Oct. 9, 2019); American Oversight (@weareoversight), TWITTER, https://twitter.com/weareoversight (last visited Oct. 9, 2019).

[5] *DOJ Records Relating to Solicitor General Noel Francisco's Recusal*, AMERICAN OVERSIGHT, https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance.

[6] *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.

[7] *Audit the Wall*, AMERICAN OVERSIGHT, https://www.americanoversight.org/investigation/audit-the-wall.

Accordingly, American Oversight qualifies for a fee waiver. If your agency denies a fee waiver, please notify American Oversight of any anticipated fees or costs in excess of $100 prior to incurring such costs or fees.

Conclusion

We share a common mission to promote transparency in government. American Oversight looks forward to working with the Office of the Secretary of State on this request. If you do not understand any part of this request, have any questions, or foresee any problems in fully releasing the requested records, please contact Christine H. Monahan at foia@americanoversight.org or (202) 918-7117. 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,

Austin R. Evers
Executive Director
American Oversight