



April 7, 2020

VIA EMAIL

Freedom of Information Officer
Centers for Disease Control and Prevention
1600 Clifton Road NE
Building 57, Room MS D-54
Atlanta, GA 30333
FOIARequests@cdc.gov

Re: Freedom of Information Act Request

Dear Freedom of Information Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the implementing regulations of your agency, American Oversight makes the following request for records.

Requested Records

American Oversight requests that your agency produce the following records within twenty business days:

All records regarding or reflecting the content presented during a staff delegation for the Senate Armed Services Committee on February 11, 2019, as indicated by the documents attached hereto as Exhibit A. This request includes, but is not limited to, materials shared during the meeting, notes taken during the meeting, memoranda memorializing the meeting, and read-outs of the meeting.

Given that this request seeks a set of specific, readily identifiable records, American Oversight expects that this request can be processed on the Simple processing track in a prompt manner.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and your agency's regulations, American Oversight requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government



procedures by the general public in a significant way. Moreover, the request is primarily and fundamentally for non-commercial purposes.

American Oversight requests a waiver of fees because disclosure of the requested information is “in the public interest because it is likely to contribute significantly to public understanding of operations or activities of the government.”¹ The public has a significant interest in the actions that the government is taking to prevent, monitor, and alleviate disease. Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the federal government, including the tools used to forecast and track the spread of disease, the staff who are tasked with responding to outbreaks, and the measures taken to combat epidemics, as indicated by Exhibit A. American Oversight is committed to transparency and makes the responses agencies provide to FOIA 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.

This request is primarily and fundamentally for non-commercial purposes.² 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. 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.³

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through numerous substantive analyses posted to its website.⁴ Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to an ethics waiver received by a senior Department of Justice attorney and an analysis of what those records demonstrated regarding the Department’s process for issuing such waivers;⁵ posting records received as part of American Oversight’s “Audit the Wall” project

¹ 5 U.S.C. § 552(a)(4)(A)(iii).

² See 5 U.S.C. § 552(a)(4)(A)(iii).

³ American Oversight currently has approximately 15,400 page likes on Facebook and 102,200 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited Apr. 2, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited Apr. 2, 2020).

⁴ News, AMERICAN OVERSIGHT, <https://www.americanoversight.org/blog>.

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>; *Francisco & the Travel Ban: What We Learned from the DOJ Documents*, AMERICAN

to gather and analyze information related to the administration’s proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;⁶ posting records regarding potential self-dealing at the Department of Housing & Urban Development and related analysis;⁷ posting records and analysis relating to the federal government’s efforts to sell nuclear technology to Saudi Arabia;⁸ and posting records and analysis regarding the Department of Justice’s decision in response to demands from Congress to direct a U.S. Attorney to undertake a wide-ranging review and make recommendations regarding criminal investigations relating to the President’s political opponents and allegations of misconduct by the Department of Justice itself and the Federal Bureau of Investigation.⁹

Accordingly, American Oversight qualifies for a fee waiver.

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

OVERSIGHT, <https://www.americanoversight.org/francisco-the-travel-ban-what-we-learned-from-the-doj-documents>.

⁶ See generally *Audit the Wall*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/investigation/audit-the-wall>; see, e.g., *Border Wall Investigation Report: No Plans, No Funding, No Timeline, No Wall*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/border-wall-investigation-report-no-plans-no-funding-no-timeline-no-wall>.

⁷ *Documents Reveal Ben Carson Jr.’s Attempts to Use His Influence at HUD to Help His Business*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/documents-reveal-ben-carson-jr-s-attempts-to-use-his-influence-at-hud-to-help-his-business>.

⁸ *Investigating the Trump Administration’s Efforts to Sell Nuclear Technology to Saudi Arabia*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/investigating-the-trump-administrations-efforts-to-sell-nuclear-technology-to-saudi-arabia>.

⁹ *Sessions’ Letter Shows DOJ Acted on Trump’s Authoritarian Demand to Investigate Clinton*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/sessions-letter>.

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. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA.¹⁰ It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; American Oversight has a right to records contained in those files even if material has not yet been moved to official systems or if officials have, by intent or through negligence, failed to meet their obligations.¹¹
- Please use all tools available to your agency to conduct a complete and efficient search for potentially responsive records. Agencies are subject to government-wide requirements to manage agency information electronically,¹² and many agencies have adopted the National Archives and Records Administration (NARA) Capstone program, or similar policies. These systems provide options for searching emails and other electronic records in a manner that is reasonably likely to be more complete than just searching individual custodian files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency’s archiving tools may capture that email under Capstone. At the same time, custodian searches are still necessary; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.

¹⁰ See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145, 149–50 (D.C. Cir. 2016); cf. *Judicial Watch, Inc. v. Kerry*, 844 F.3d 952, 955–56 (D.C. Cir. 2016).

¹¹ See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016).

¹² Presidential Memorandum—Managing Government Records, 76 Fed. Reg. 75,423 (Nov. 28, 2011), <https://obamawhitehouse.archives.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>; Office of Mgmt. & Budget, Exec. Office of the President, Memorandum for the Heads of Executive Departments & Independent Agencies, “Managing Government Records Directive,” M-12-18 (Aug. 24, 2012), <https://www.archives.gov/files/records-mgmt/m-12-18.pdf>.

- 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 Christine Monahan at foia@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,



Austin R. Evers
Executive Director
American Oversight

EXHIBIT A



Centers for Disease Control and Prevention Welcomes



Senate Armed Services Committee (SASC) Delegation

Ms. Jackie Kerber, Professional Staff

Dr. Jonathan Epstein, Counsel

Accompanied by:

Captain Jim Hart, U.S. Army, Legislative Liaison

AGENDA: MONDAY, FEBRUARY 11, 2019

TIME	SESSION	SPEAKER/PROGRAM EXPERT	LOCATION
9:15 am	<i>Arrival to CDC</i>	Dr. Rima Khabbaz <i>Director, National Center for Emerging & Zoonotic Infectious Diseases (NCEZID)</i>	Bldg. 21, Lobby
9:20 – 9:30 am	<i>Travel to Building 18</i>		
9:30 – 10:15 am	High Containment Lab Tour (SASC Delegation)	Dr. Inger Damon <i>Director, Division of High Consequence Pathogens & Pathology (DHCPP), NCEZID</i>	Bldg. 18, Lab
	Discussion of CDC's NCEZID Work (DTRA Delegation)	Dr. Joel Montgomery <i>Deputy Associate Director, Infectious Disease Preparedness, NCEZID</i>	Bldg. 18, SB-137
		Dr. Jenni McQuiston <i>Deputy Director, DHCPP, NCEZID</i>	
		Mr. Michael Craig <i>Senior Advisor, Antibiotic Resistance Program, NCEZID</i>	
		Ms. Rebecca Miler <i>Associate Director for Policy, NCEZID</i>	
10:15 – 10:30 am	<i>Travel to Building 21</i>		
10:30 – 10:45 am	Greeting from CDC Director	Dr. Robert Redfield <i>Director, CDC</i>	Bldg. 21, 3 rd Floor, EOC/ECR
10:45 – 11:45 am	Emergency Operations Center (EOC) Tour and Discussion of Coordination During Responses	Dr. Stephen Redd <i>Director, Center for Preparedness & Response (CPR)</i>	Bldg. 21, 3 rd Floor, EOC
		Dr. Ray Arthur <i>Director, Global Disease Detection Operations Center, Center for Global Health (CGH)</i>	
		Dr. John Vertefeuille <i>Branch Chief, Polio Eradication, Global Immunization Division, CGH</i>	
		Dr. Pat Breyse <i>Director, National Center for Environmental Health/Agency for Toxic Substances & Disease Registry (NCEH/ATSDR)</i>	
		Dr. Jim Pirkle <i>Director, Division of Laboratory Sciences, NCEH/ATSDR</i>	
		Dr. Henry Walke <i>Director, Division of Preparedness & Emerging Infections (DPEI), NCEZID</i>	
		Dr. Satish Pillai <i>Deputy Director, DPEI, NCEZID</i>	



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Ms. Jackie Kerber, Professional Staff

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Accompanied by:

Captain Jim Hart, U.S. Army, Legislative Liaison

11:45am – 12:00pm *Travel to 12th Floor*

12:00pm – 1:00 pm	Working Lunch Discussion CDC's Global Health Work: Global Health Security Agenda, Outbreak Response, and Interdepartmental Collaboration (including DTRA)	<p>Dr. Rebecca Martin <i>Director, CGH</i></p> <p>Ms. Maureen Bartee <i>Associate Director, Global Health Security, CGH</i></p> <p>Dr. Nancy Messonnier <i>Director, National Center for Immunization & Respiratory Diseases (NCIRD)</i></p> <p>Dr. Dan Jernigan <i>Director, Influenza Division, NCIRD</i></p> <p>Dr. Amanda Cohn <i>Medical Officer, NCIRD</i></p> <p>Dr. Rima Khabbaz <i>Director, NCEZID</i></p> <p>Dr. Joel Montgomery <i>Deputy Associate Director, Infectious Disease Preparedness, NCEZID</i></p> <p>Dr. Daniel Sosin <i>Deputy Director & Chief Medical Officer, CPR</i></p>	Bldg. 21, 12 th Floor, CR12302
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1:00 – 1:15 pm *Break*

1:15 – 2:15 pm	Global Epidemics Discussion	<p>Ms. Serena Vinter <i>Acting Deputy Director, Strategy, Policy, & Communication, CGH</i></p> <p>Ms. Maureen Bartee <i>Associate Director, Global Health Security, CGH</i></p> <p>Dr. Dan Jernigan <i>Director, Influenza Division, NCIRD</i></p> <p>Dr. Amanda Cohn <i>Medical Officer, NCIRD</i></p> <p>Dr. Inger Damon <i>Director, DHCPP, NCEZID</i></p> <p>Dr. Joel Montgomery <i>Deputy Associate Director, Infectious Disease Preparedness, NCEZID</i></p>	Bldg. 21, 12 th Floor, CR 12302
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2:15 – 2:30 pm *Travel to Building 17*

2:30 – 3:15 pm	Influenza Lab Tour	Dr. Dan Jernigan <i>Director, Influenza Division, NCIRD</i>	Building 17, 5 th Floor, Lab
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3:15 – 3:25 pm *Travel to Building 21*

3:30 pm	<i>Departure</i>	Bldg. 21, Lobby
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Senate Armed Services Committee (SASC) Delegation

Ms. Jackie Kerber, Professional Staff

Dr. Jonathan Epstein, Counsel

Accompanied by:

Captain Jim Hart, U.S. Army, Legislative Liaison

CDC Washington

Ms. Barbara Rogers, Account Manager, Center for Preparedness and Response

Cell:

DoD Liaison

Dr. Eric Deussing, DOD Liaison to CDC

Cell:

Defense Threat Reduction Agency (DTRA)

Captain Todd Copeland, U.S. Navy, Legislative Affairs

Mr. Randy Long, Deputy Director, Cooperative Threat Reduction Directorate