



April 1, 2020

VIA EMAIL

Oklahoma State Department of Health  
1000 NE 10th  
Oklahoma City, OK 73117  
[OSDHOOpenRecords@health.ok.gov](mailto:OSDHOOpenRecords@health.ok.gov)

**Re: Open Records Act Request**

Dear Records Access Officer:

Pursuant to the Title 51 Oklahoma Statutes §§ 24A.1 et seq., American Oversight makes the following request for records.

Requested Records

1. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) **sent** by (A) the specified officials in the Oklahoma State Department of Health **to** (B) representatives of the federal government with **email addresses ending in cdc.gov, hhs.gov, fda.gov, or eop.gov**, containing any of the key terms listed below.

Specified Officials:

- a. Commissioner of Health, Gary Cox
- b. Chief of Staff, Jackie Shawnee
- c. Former State Epidemiologist, Laurence Burnsed
- d. Interim State Epidemiologist, Aaron Wendelboe
- e. Director of the Public Health Laboratory, Terry Dunn
- f. Communications Consultant, Donelle Harder

Key Terms:

- |                 |                     |
|-----------------|---------------------|
| 1. Coronavirus  | 11. RNA             |
| 2. Corona       | 12. Reagent         |
| 3. COVID        | 13. Swabs           |
| 4. "SARS-cov-2" | 14. EUA             |
| 5. "2019-nCoV"  | 15. "Emergency Use" |
| 6. Test         | 16. LDT             |
| 7. Tests        | 17. CLIA            |
| 8. Testing      | 18. 564             |
| 9. Kit          | 19. Defect          |
| 10. Primer      | 20. Vaccine         |



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|------------------------|--------------------|
| 21. Antiviral          | 42. Ventilators    |
| 22. Antiretroviral     | 43. Respirator     |
| 23. Hydroxychloroquine | 44. Respirators    |
| 24. Chloroquine        | 45. ICU            |
| 25. Epidemic           | 46. capacity       |
| 26. Pandemic           | 47. "hospital bed" |
| 27. Isolate            | 48. "Drive-thru"   |
| 28. Isolation          | 49. "Drive thru"   |
| 29. Contagious         | 50. PPE            |
| 30. Contagion          | 51. Shortage       |
| 31. Infect             | 52. Shortages      |
| 32. Infection          | 53. Utah           |
| 33. Infections         | 54. Jazz           |
| 34. Transmission       | 55. NBA            |
| 35. Asymptomatic       | 56. Basketball     |
| 36. Quarantine         | 57. Thunder        |
| 37. Quarantining       | 58. Gobert         |
| 38. Distancing         | 59. Mitchell       |
| 39. "face mask"        | 60. Chesapeake     |
| 40. N95                | 61. CEA            |
| 41. Ventilator         |                    |

Please provide all responsive records from March 1, 2020, to March 31, 2020.

2. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) **sent** by (A) the specified officials in the Oklahoma State Department of Health **to** (B) Communications Consultant Donelle Harder.

Specified Officials:

1. Commissioner of Health, Gary Cox
2. Chief of Staff, Jackie Shawnee
3. Former State Epidemiologist, Laurence Burnsed
4. Interim State Epidemiologist, Aaron Wendelboe
5. Director of the Public Health Laboratory, Terry Dunn

Please provide all responsive records from February 17, 2020, to March 31, 2020.

American Oversight has limited its request to **sent** messages to reduce the volume of potentially responsive records. American Oversight still requests complete email chains. So, for example, if a government official sent a response to an incoming message containing one of the key terms above, the email chain containing the initially received message and the response is responsive to this request.

We understand that your office's capacity may be impacted by the COVID-19 outbreak and response efforts. Should that be the case, we would be happy to discuss potential streamlining or narrowing of our request, reasonable delays in processing this request, or other accommodations. Please feel free to contact us at the telephone number listed in the final paragraph of this letter; we look forward to working with you.

Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fees.

### **Fees Waiver Request**

In accordance with O.S. tit. 51, § 24A.5(4), American Oversight respectfully requests that your office charge no search fees in connection with processing this request for records. Release of the requested records is in the public interest because American Oversight, in accordance with its organizational mission, makes this request "to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants." Specifically, the requested records have the potential to shed light on the actions of Oklahoma's public officials in addressing an ongoing public health crisis and what role the federal government played in supervising the state's response.

American Oversight's work is aimed solely at serving the public interest. *Id.* 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. Rather, American Oversight's mission is to serve the public by promoting transparency in government, educating the public about government activities, and ensuring the accountability of government officials. Similar to members of the news media, 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<sup>1</sup> and promotes their availability on social media platforms, such as Facebook and Twitter.<sup>2</sup> American Oversight has demonstrated its commitment to the public disclosure of documents and creation of editorial content through numerous substantive analyses posted to its website.<sup>3</sup>

American Oversight is committed to transparency and makes the responses agencies provide to public records requests publicly available, and the public's understanding of the government's activities, including whether public servants are honestly, faithfully, and competently performing their duties, would be enhanced through American Oversight's analysis and publication of these records.

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<sup>1</sup> *Documents*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/documents>.

<sup>2</sup> 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 March 30, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited March 30, 2020).

<sup>3</sup> *News*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/blog>.

Furthermore, in accordance with O.S. tit. 51, § 24A.5(4), American Oversight respectfully requests that you limit any copying fees to the reasonable, direct costs of record copying, or mechanical reproduction, if any such costs are incurred.

American Oversight asks that if its request for a fee waiver is denied in whole or in part, that you contact us prior to incurring any costs.

### **Guidance Regarding the Search & Processing of Requested Records**

American Oversight insists that 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; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.**

In the event some portions of the requested records are properly exempt from disclosure pursuant to Title 51 Oklahoma Statutes § 24A.1 et seq., 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.

You should institute a preservation hold on information responsive to this request. American Oversight intends to pursue all legal avenues to enforce its right of access under Title 51, including litigation if necessary. Accordingly, your agency is on notice that litigation is reasonably foreseeable.

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 you 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.

### **Conclusion**

American Oversight is a 501(c)(3) nonprofit with the mission 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.

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, have any questions, or foresee any problems in fully releasing the requested records, please contact Christine H. Monahan at [foia@americanoversight.org](mailto:foia@americanoversight.org) or (202) 869-5244.

Sincerely,

A handwritten signature in blue ink that reads "Austin R. Evers". The signature is fluid and cursive, with a long horizontal line extending to the left.

Austin R. Evers  
Executive Director  
American Oversight