



June 26, 2020

VIA EMAIL

Oklahoma State Department of Health
1000 NE 10th
Oklahoma City, OK 73117
OSDHOOpenRecords@health.ok.gov

Re: Open Records Act Request

Dear Records Access Officer:

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

Requested Records

American Oversight requests that your office produce the following within five business days:

Any final assessments, reports, analyses, recommendations, or guidance prepared by your office, other federal, state, or local offices (including the Tulsa Health Department and the U.S. Centers for Disease Control and Prevention), or independent experts regarding any projected or actual effects or impacts of the Trump campaign's June 2020 rally in Tulsa on the spread of COVID-19. This request includes but is not limited to any assessments, reports, analyses, recommendations, or guidance provided to your office by the Trump campaign.

Please provide all responsive records from June 1, 2020, to the date the search is conducted.

Fee Waiver Request

In accordance with 51 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."¹ Oklahoma, and Tulsa in particular, is currently in the midst of a surge in coronavirus

¹ O.S. tit. 51, § 24A.5(4).



cases and hospitalizations.² Despite a consensus among the public health community and guidance from CDC that large, in-person gatherings present the highest risk of transmission,³ President Trump held a campaign rally in Tulsa on June 20, 2020.⁴ The requested records have the potential to shed light on the extent to which Oklahoma health officials have considered the effects of a non-essential mass gathering during a viral pandemic.

American Oversight's work is aimed solely at serving the public interest.⁵ 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 website⁶ and promotes their availability on social media platforms, such as Facebook and Twitter.⁷ 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.⁸

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

² Chris Casteel, *Oklahoma Coronavirus Cases Surge, Hospitalizations Rise Ahead of Trump's Tulsa Rally*, USA Today (June 19, 2020, 9:11 AM), <https://www.usatoday.com/story/news/health/2020/06/19/oklahoma-coronavirus-covid-19-cases-rise-ahead-trump-tulsa-rally/3220736001/>; Sean Murphy, *Tulsa Mayor Juggles Trump Rally with Surge in Coronavirus Cases*, WUSA9 (June 16, 2020, 1:56 AM), <https://www.wusa9.com/article/news/health/coronavirus/tulsa-mayor-trump-rally-covid/507-67167cf4-808c-4ba1-b043-aa41df7f97eb>.

³ Daniela Hernandez et al., *How Exactly Do You Catch Covid-19? There Is a Growing Consensus*, Wall St. J. (June 16, 2020, 10:39 AM), <https://www.wsj.com/articles/how-exactly-do-you-catch-covid-19-there-is-a-growing-consensus-11592317650>; *Considerations for Events and Gatherings*, CDC, June 12, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/considerations-for-events-gatherings.html>.

⁴ Barbara Sprunt, *After Disappointing Tulsa Rally, Trump Campaign Movers to Arizona*, NPR (June 23, 2020, 5:01 AM), <https://www.npr.org/2020/06/23/881641178/after-disappointing-tulsa-rally-trump-campaign-moves-to-arizona>.

⁵ See O.S. tit. 51, § 24A.5(4).

⁶ *Documents*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/documents>.

⁷ American Oversight currently has approximately 15,600 page likes on Facebook and 103,900 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited June 19, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited June 19, 2020).

⁸ *News*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/blog>.

their duties, would be enhanced through American Oversight's analysis and publication of these records.

Accordingly, 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 the Oklahoma Open Records Act, please disclose any reasonably segregable non-exempt portions of the requested records.⁹ 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.

⁹ O.S. tit. 51, § 24A.5(2).

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, as noted above.

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 Monahan at records@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