



July 24, 2020

VIA CERTIFIED MAIL

Office of the Governor of Oklahoma
ORA Office
Room 212
2300 North Lincoln Boulevard
Oklahoma City, OK 73105

Re: Open Records Act Request

Dear Records Access Officer:

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

On March 27, 2020, Governor Stitt issued an executive order that included a temporary ban on elective surgeries, specifying that the ban covered “any type of abortion services” except those necessary “to prevent serious health risks” to a pregnant woman.¹ On April 3, Governor Stitt extended the temporary ban, but days later it was struck down by a federal district court, in a ruling that was later upheld by the Tenth Circuit Court of Appeals.²

American Oversight seeks records with the potential to shed light on factors that influenced Governor Stitt’s decisions, including whether and to what extent parties outside the state government played a role.

Requested Records

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

All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) sent by the following specified state officials and containing any of the key terms listed below.

Please provide all responsive records from March 13, 2020, through April 13, 2020.

¹ *Appeals Court Blocks Oklahoma COVID-19-related Abortion Ban*, AP, Apr. 13, 2020, <https://apnews.com/62eda55344d577f67e9a7b6a9c83dd6e>.

² *Id.*



Specified Officials:

- a. Governor Kevin Stitt, or anyone communicating on his behalf, such as assistants or schedulers
- b. Chief of Staff Michael Junk
- c. General Counsel Mark Burget
- d. Deputy General Counsel Jeffrey Cartmell

Key Terms:

- | | |
|-------------------|-------------------------------|
| i. Abortion | xiii. Mifeprex |
| ii. Abort | xiv. Misoprostol |
| iii. Pregnancy | xv. Cyotec |
| iv. Pregnant | xvi. “Planned Parenthood” |
| v. Terminate | xvii. PP |
| vi. Termination | xviii. PPFA |
| vii. Reproductive | xix. “right to life” |
| viii. Fetus | xx. “pro-life” |
| ix. Baby | xxi. “prolife” |
| x. Babies | xxii. “Trust Women” |
| xi. Elective | xxiii. “serious health risks” |
| xii. Mifepristone | |

In an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited its request to emails sent by the named officials. To be clear, however, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means that both a custodian’s response to an email and the initial received message are responsive to this request and should be produced.

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.”³ 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 information state officials may have relied on in deciding to ban abortion services during the pandemic.

American Oversight’s work is aimed solely at serving the public interest.⁴ 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

³ O.S. tit. 51, § 24A.5(4).

⁴ *Id.*

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 website⁵ and promotes their availability on social media platforms, such as Facebook and Twitter.⁶ 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.⁷

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.

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 the ORA, 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.

⁵ *Documents*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/documents>.

⁶ American Oversight currently has approximately 15,500 page likes on Facebook and 104,300 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited July 19, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited July 19, 2020).

⁷ *News*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/blog>.

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 the ORA, 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 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 Khahilia Shaw at records@americanoversight.org or (202) 539-6507.

Sincerely,

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

Austin R. Evers
Executive Director
American Oversight