



April 13, 2021

VIA EMAIL

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

Re: Open Records Act Request

Dear Records Access Officer:

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

On February 1, 2021, the Department of Homeland Security released a statement declaring access to the Covid-19 vaccine “a moral and public health imperative,” including for non-citizens, and indicating that federal immigration enforcement would not conduct operations at vaccine centers or clinics.¹ However, reports have since emerged of individuals improperly being denied vaccines on account of their immigration status² and some public officials have continued to call for discriminatory vaccine distribution practices.³

American Oversight seeks records with the potential to shed light on vaccine distribution practices in Oklahoma, including whether or to what extent public officials have considered immigration status as a criterion for eligibility or priority.

Requested Records

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

All email communications (including email messages, complete email chains, email attachments, calendar invitations, and calendar invitation attachments) sent by the specified Oklahoma Department of Health officials listed in Column A, below, containing any of the key terms listed in Column B.

¹ US Department of Homeland Security, *DHS Statement on Equal Access to COVID-19 Vaccines and Vaccine Distribution Sites*, Feb. 1, 2021, <https://www.dhs.gov/news/2021/02/01/dhs-statement-equal-access-covid-19-vaccines-and-vaccine-distribution-sites>.

² Andrea Salcedo, *Texas Vaccination Site Turned Away Undocumented Immigrants Over Their Status, Against State Policy*, Wash. Post (Feb. 26, 2021, 7:48 AM), <https://www.washingtonpost.com/nation/2021/02/26/undocumented-texas-denied-vaccine/>.

³ Sarah Polus, *GOP Arizona Rep Urges Vaccine Priority for ‘People That Are Here Legally*, The Hill (Feb. 16, 2021, 6:45 PM), <https://thehill.com/homenews/state-watch/539103-arizona-gop-rep-urges-covid-vaccine-priority-for-people-that-are-here>.

Column A: Oklahoma Department of Health Officials	Column B: Key Terms
<ol style="list-style-type: none"> 1. Commissioner Lance Frye, or anyone communicating on his behalf, such as a scheduler or assistant 2. Deputy Commissioner for Prevention & Preparedness, Travis Kirkpatrick 3. Deputy Commissioner for Community Health Services, Keith Reed 4. Anyone serving as director of the Oklahoma Immunization Service 	<ol style="list-style-type: none"> 1. Alien 2. Citizenship 3. Foreigner 4. "foreign national" 5. Immigration 6. Immigrant 7. "legal resident" 8. "law enforcement" 9. Noncitizen 10. Non-citizen 11. "non citizen" 12. "proof of residency" 13. "public charge" 14. Undocumented

Please provide all responsive records from November 1, 2020, through the date the search is conducted.

In an effort to accommodate your agency and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited its request to emails sent by the specified officials. To be clear, however, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means, for example, that both a specified official's response to an email containing one of the listed key terms and the initial received message are responsive to this request and should be produced.

Fee Waiver Request

In accordance with 51 O.S. tit. 51, § 24A.5(4), American Oversight 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."⁴ Specifically, the requested records have the potential to shed light on Covid-19 vaccine distribution in Oklahoma.⁵ Records with the potential to shed light on this matter would contribute significantly to public understanding of whether or to what extent public servants are fulfilling their duties to promote the health and welfare of all Oklahoma residents as the state works to distribute vaccines. Whether these officials have considered immigration status as a criterion for vaccine eligibility or priority is highly relevant to this question.

⁴ O.S. tit. 51, § 24A.5(4).

⁵ Dana Branham, *A Fair Shot: Oklahoma County Gets Demographic Data on Vaccines*, *The Oklahoman* (updated Mar. 5, 2021, 4:25 PM), <https://www.oklahoman.com/story/lifestyle/health-fitness/2021/03/01/a-fair-shot-oklahoma-county-gets-demographic-data-on-vaccines/333745007/>.

American Oversight's work is aimed solely at serving the public interest.⁶ 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 promote transparency in government, to educate the public about government activities, and to ensure 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 and promotes their availability on social media platforms, such as Facebook and Twitter.⁷ American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular substantive analyses posted to its website.⁸

American Oversight is committed to transparency and makes the responses public bodies 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.

Therefore, 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

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:

- 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.

⁶ See O.S. tit. 51, § 24A.5(4).

⁷ American Oversight currently has approximately 15,690 page likes on Facebook and 106,100 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Mar. 19, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Mar. 19, 2021).

⁸ See *generally News*, American Oversight, <https://www.americanoversight.org/blog>; *State Investigations*, American Oversight, <https://www.americanoversight.org/states>; see also, e.g., *State Government Contacts with Voting-Restriction Activists*, American Oversight, <https://www.americanoversight.org/investigation/state-government-contacts-with-voting-restriction-activists>; *Georgia's Voting Machines and Election Security*, American Oversight, <https://www.americanoversight.org/investigation/georgias-voting-machines-and-election-security>; *Tulsa Health Officials Initially Estimated Trump Rally Would Directly Lead to 2 to 9 Deaths*, American Oversight, <https://www.americanoversight.org/tulsa-health-officials-initially-estimated-trump-rally-would-directly-lead-to-2-to-9-deaths>.

- 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.
- 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.⁹ 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 records@americanoversight.org or (202) 869-5244.

Sincerely,

/s/ Christine Monahan
Christine Monahan
on behalf of
American Oversight

⁹ O.S. tit. 51, § 24A.5(2).