



May 1, 2020

VIA ELECTRONIC MAIL

Open Records Custodian
Georgia Department of Public Health
Division of General Counsel
2 Peachtree Street, NW
15th Floor
Atlanta, GA 30303-3186
DPH-OpenRecords@dph.ga.gov

Re: Open Records Request

Dear Records Custodian:

Pursuant to the Georgia Open Records Law (O.C.G.A. § 50-18-70 et seq.), American Oversight makes the following request for records.

Requested Records

American Oversight requests that your office produce the following within three business days, or provide a written description of any responsive records with a timetable for their production within three business days:

1. All instructions, directives, orders, decision memoranda, or guidance regarding (a) the Department of Public Health's (DPH) collection of COVID patients' racial or ethnic identities during testing and/or treatment and (b) the omission of a question identifying a patient's race or ethnicity on COVID testing registration forms.¹

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

¹ Reporting by the Atlanta Journal-Constitution indicates that COVID testing registration forms provided by DPH until April 17, 2020 omitted a question requesting the race or ethnicity of the COVID patient. Such reporting has also indicated that DPH restored the racial question to its testing forms on or around April 17, 2020. See Ariel Hart, *Georgia Drive-up Coronavirus Test Sites Weren't Collecting Race Data*, ATLANTA J.-CONST., Apr. 17, 2020, <https://www.ajc.com/news/state--regional-govt--politics/georgia-drive-coronavirus-test-sites-weren-collecting-race-data/UIRX3LvqbmqqIQkGICATRO/>.



2. All email communications (including complete email chains, email messages, calendar invitations, and attachments thereto) sent to or received by any of the officials in Georgia Department of Public Health listed below regarding (a) DPH collection of COVID patients' racial or ethnic identities during testing and/or treatment and (b) the lack of data on the race of coronavirus patients as of approximately April 17, 2020.
 - a. Commissioner Kathleen Toomey
 - b. Executive Assistant to the Commissioner/Board Coordinator, Hurriyah Lewis
 - c. Division of Health Protection Director, Pat O'Neal
 - d. State Epidemiologist and Chief Science Officer, Cherie Drenzek
 - e. State Laboratory Director, Elizabeth Franko
 - f. Director of Government Relations, Megan Andrews

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

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

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.

In addition, American Oversight insists that the Department of Public Health 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; your office 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, 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.

Please take appropriate steps to ensure that records responsive to this request are not deleted by your office 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.

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 the Department of Public Health 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.²

We share a common mission to promote transparency in government. American Oversight looks forward to working with you 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,



Austin R. Evers
Executive Director
American Oversight

² American Oversight currently has approximately 15,500 page likes on Facebook and 102,200 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited Apr. 9, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited Apr. 9, 2020).