



February 10, 2021

VIA ONLINE PORTAL

Office of the Governor
700 W. Jefferson Street, Suite 228
P.O. Box 83720
Boise, Idaho 83720-0034
Via Online Portal

Re: Public Records Act Request

Dear Public Records Custodian:

Pursuant to Idaho's Public Records Act, as codified at Chapter 1 of Title 74 of the Idaho Code, I.C. T. 74, Ch. 1, American Oversight makes the following request for records.

The novel coronavirus has infected more than 27 million people and resulted in more than 464,000 deaths in the United States alone.¹ In recent months, the speed and volume of infections have reached record highs across much of the country, surpassing 200,000 average new daily cases.² Despite the months-long increase in infections, several state governments are still declining to impose or have only recently imposed public health measures such as mask mandates to mitigate the virus's spread, including in states where the rate of infections is highest.³

American Oversight seeks records with the potential to shed light on Idaho's response to the coronavirus pandemic.

Requested Records

Pursuant to Section 74-103(1) of the Idaho Code, American Oversight requests that the Office of the Governor produce the following records within three working days, or, if a longer period of time is needed and American Oversight is so notified, within ten working days:

¹ *Coronavirus in the U.S.: Latest Map and Case Count*, N.Y. Times (updated Feb. 9, 2021, 7:43 AM), <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html>

² *Id.*

³ Lea Asmelash et al., *Most States Now Require Face Masks to Reduce the Spread of Covid-19. These Are the Ones That Don't*, CNN (updated Dec. 8, 2020, 2:17 PM), <https://www.cnn.com/2020/11/09/us/biden-mask-mandate-nationwide-trnd/index.html>.



All email communications (including email messages, email attachments, complete email chains, calendar invitations, and attachments thereto) sent by the officials in the Office of the Governor listed in Column A containing any of the key terms listed in Column B:

Column A: Office of the Governor	Column B: Specified Terms
<ol style="list-style-type: none"> 1. Governor Brad Little or anyone communicating on his behalf (such as an assistant or scheduler) 2. Chief of Staff, Zach Hauge 3. Deputy Chief of Staff, Bobbi-Jo Meuleman 4. Director of Policy, Sam Eaton 	<ol style="list-style-type: none"> 1. “herd immunity” 2. “natural immunity” 3. “natural infection” 4. “focused protection” 5. Atlas 6. Kulldorff 7. mkulldorff@bwh.harvard.edu 8. Bhattacharya 9. jay@stanford.edu 10. Gupta 11. sunetra.gupta@zoo.ox.ac.uk 12. Barrington 13. Sweden 14. Swedish

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

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

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.
- 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. Records of official business conducted

using unofficial systems or stored outside of official files are subject to Idaho's Public Records Act if they were "prepared" by your agency, including by an employee of your agency.⁴

- 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.⁵ 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.

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.

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

⁴ See I.C. § 74-101(13); cf. *Cowles Pub. Co. v. Kootenai Cty. Bd. of Cty. Comm'rs*, 144 Idaho 259, 263 (2007).

⁵ I.C. § 74-112.

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

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 H. Monahan at records@americanoversight.org or (202) 868-5244.

Sincerely,

/s/ Christine H. Monahan

Christine H. Monahan
on behalf of
American Oversight

⁶ American Oversight currently has approximately 15,600 page likes on Facebook and 105,600 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Feb. 4, 2021); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited Feb. 4, 2021).