



February 10, 2021

**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, O.S. tit. 51, §§ 24A.1 et seq., 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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup>

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

**Requested Records**

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

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<sup>1</sup> *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>.

<sup>2</sup> *Id.*

<sup>3</sup> 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>; Carmen Foreman, *As the CDC Discouraged Holiday Travel, Gov. Kevin Stitt Urged Tourists To Visit Oklahoma*, Tulsa World, Dec. 20, 2020, [https://tulsaworld.com/news/local/as-the-cdc-discouraged-holiday-travel-gov-kevin-stitt-urged-tourists-to-visit-oklahoma/article\\_8df0fee6-42f3-11eb-9e1f-1b2ba4f266e9.html](https://tulsaworld.com/news/local/as-the-cdc-discouraged-holiday-travel-gov-kevin-stitt-urged-tourists-to-visit-oklahoma/article_8df0fee6-42f3-11eb-9e1f-1b2ba4f266e9.html).



All email communications (including email messages, email attachments, complete email chains, calendar invitations, and attachments thereto) sent by the following officials in the Office of the Governor containing both a key term listed below in Column A and a key term listed in Column B.

Specified Officials:

- a. Governor Kevin Stitt or anyone communicating on his behalf (such as an assistant or scheduler)
- b. Chief Operating Officer, John Budd
- c. Chief of Staff, Bond Payne
- d. Deputy Chief of Staff, Zachary Lee
- e. Chief Policy Advisor, Brian Bingman

Key Terms:<sup>4</sup>

<u>Column A</u>	<u>Column B</u>
1. "holiday travel"	1. spread
2. "Labor Day"	2. spike
3. "Thanksgiving"	3. surge
4. "Christmas"	4. deaths
5. "New Year"	5. cases
6. "Super Bowl"	6. hospitalizations
7. Tourism	
8. Tourists	

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 specified officials to reduce the volume of potentially responsive records. American Oversight still requests complete email chains. So, for example, if a government official 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.

**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,

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<sup>4</sup> To clarify, if your office is capable of employing Boolean terms and connections, an appropriate search string implementing this request would be:

("holiday travel" OR "Labor Day" OR "Thanksgiving" OR "Christmas" OR "New Year" OR "Super Bowl" OR Tourism OR Tourists) AND (spread OR spike OR surge OR deaths OR cases OR hospitalizations)

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.”<sup>5</sup> Specifically, the requested records have the potential to shed light on the Oklahoma state government’s response to the coronavirus, an urgent public health emergency.<sup>6</sup> Records with the potential to shed light on this issue would contribute significantly to public understanding of whether and to what extent public servants are fulfilling their duties, including safeguarding public health during an unprecedented global pandemic.

American Oversight’s work is aimed solely at serving the public interest.<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup>

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

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<sup>5</sup> O.S. tit. 51, § 24A.5(4).

<sup>6</sup> See *supra*, notes 1 & 3; Carmen Foreman, *Stitt: Next Course of Action Halting Elective Surgeries, Not Mask Mandate*, *The Oklahoman* (updated Nov. 20, 2020, 1:28 AM), <https://oklahoman.com/article/5676637/stitt-next-course-of-action-halting-elective-surgeries-not-mask-mandate>.

<sup>7</sup> See O.S. tit. 51, § 24A.5(4).

<sup>8</sup> 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, 2020) American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Feb. 4, 2020).

<sup>9</sup> See *generally News*, American Oversight, <https://www.americanoversight.org/blog>; *State Accountability Project*, American Oversight, [https://www.americanoversight.org/areas\\_of\\_investigation/state-local-investigations](https://www.americanoversight.org/areas_of_investigation/state-local-investigations); 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>.

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.
- 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.<sup>10</sup> 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

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<sup>10</sup> O.S. tit. 51, § 24A.5(2).

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 H. Monahan at [records@americanoversight.org](mailto:records@americanoversight.org) or (202) 868-5244.

Sincerely,

*/s/ Christine H. Monahan*  
Christine H. Monahan  
on behalf of  
American Oversight