



Request No.

2020-00798-FOIA-OS

American Oversight v. U.S. Dep't. Health and Human Services et al., 20-cv-1343

August 31, 2020

Sent via e-mail

Ms. Melanie Sloan

Senior Advisor

American Oversight

1030 15th Street, N.W., Suite B255

Washington, DC 20005

foia@Americanoversight.org

Dear Ms. Sloan:

This letter is the Department of Health and Human Services' (HHS) final response to your March 26, 2020 Freedom of Information Act (FOIA) request. Specifically, you requested the following records from February 1, 2020, to the date the search is conducted:

All email communications (email messages, email attachments, complete email chains, calendar invitations, and attachments thereto) between (1) the agency officials specified below and (2) Rep. Mark Meadows, including any personal email addresses, as well as official house.gov email addresses attributed to Rep. Meadows, and anyone serving on his staff, including Chief of Staff Ben Williamson (ben.williamson@mail.house.gov), Scheduler Kate Morgan (kate.morgan@mail.house.gov), or Legislative Director Eric Heigis (eric.heigis@mail.house.gov).

Department of Health and Human Services i. Secretary Alex Azar and anyone communicating on his behalf, such as a scheduler or assistant ii. Anyone serving in the capacity of Chief of Staff or Executive Secretary iii. Anyone serving in the capacity of White House Liaison or White House Advisor, and their deputies iv. Anyone serving in the capacity of Director of Legislative Affairs.

The Department has processed 2 pages of potentially responsive records captured in the agency's search for FOIA request 2020-00798-FOIA-OS.

After a careful review of these pages, I have determined to release 1 pages to you in its entirety,

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and I am further releasing 1 page in part, with portions redacted, pursuant to Exemption (b)(6) of the FOIA (5 U.S.C. §§ (b)(6)).

FOIA exemption (b)(6) permits a Federal agency to withhold information and records about individuals in "personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." The definition of "similar files" has historically been broadly interpreted to include a wide variety of files, and the United States Supreme Court has held that Congress intended the term "similar files" to be interpreted broadly, rather than narrowly. I have analyzed these records and find they meet the threshold requirement of this exemption. Additionally, I have reviewed and weighed the public interest in disclosure of this information against the privacy interest in nondisclosure, and found that the privacy interest outweighs the public's interest in disclosure.

Should you have questions or concerns regarding the Department's response and/or the processing of your request, any such issues should be communicated to your legal counsel and Department of Justice Attorney representing the Department in this matter.

Sincerely yours,



Brandon J. Gaylord
Director
FOI/Privacy Act Division

Enclosure: 02 pages

From:	Schmalz, Jennifer (ACF) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0409F47DAA7C47D8AAF8B330CCC6F482-SCHMALZ, JE>
To:	<ben.williamson@mail.house.gov>; <sean.mcandrews@mail.house.gov>
CC:	Morse, Sara (HHS/ASL) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eb3a04f7dbde41049bfd10f490d3e178-Morse, Sara>; Arbes, Sarah (HHS/ASL) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=106db0ac70a241a8b1323647c093d9bf-Arbes, Sara>
Subject:	Update on Coronavirus Whistleblower Issue
Date:	2020/02/29 18:43:39
Priority:	Normal
Type:	Note

Hi Ben and Sean,

I've attached a HHS memo we just shared regarding the coronavirus whistleblower issue. Please let me know if you have any questions.

Thanks,
Jenn

Jennifer Schmalz
Legislative Analyst
Office of the Assistant Secretary for Legislation
U.S. Department of Health and Human Services
202-260-7193 (O)
(b)(6) (C)

Sender:	Schmalz, Jennifer (ACF) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0409F47DAA7C47D8AAF8B330CCC6F482-SCHMALZ, JE>
Recipient:	<ben.williamson@mail.house.gov>; <sean.mcandrews@mail.house.gov>; Morse, Sara (HHS/ASL) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eb3a04f7dbde41049bfd10f490d3e178-Morse, Sara>; Arbes, Sarah (HHS/ASL) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=106db0ac70a241a8b1323647c093d9bf-Arbes, Sara>
Sent Date:	2020/02/29 18:43:37
Delivered Date:	2020/02/29 18:43:39



DEPARTMENT OF HEALTH & HUMAN SERVICES

Washington, DC 20201

TO: Interested Members of Congress

FROM: Robert Charrow
General Counsel

Dr. Robert Kadlec
Assistant Secretary for Preparedness and Response

Dr. Robert Redfield
Director
Centers for Disease Control and Prevention

DATE: February 29, 2020

- HHS is committed to our mission to enhance the health and well-being of all Americans. We are proud to have participated in the safe repatriation of our fellow citizens—many of whom are federal employees and veterans who have served faithfully.
- HHS is leading a robust response to the emerging COVID-19 and takes all congressional inquiries seriously. HHS also takes seriously all whistleblower complaints and will afford any whistleblower the full range of protections to which they are entitled under the applicable laws, including the Whistleblower Protection Act.
- There are no positive cases of COVID-19 to which any Administration for Children and Families (ACF) employees involved in the repatriation of individuals from China could have been exposed. Stated differently, no ACF employees involved with repatriating persons from China were exposed to any individuals who tested positive for the virus.
- Furthermore, the 14-day window for the virus to manifest itself has long since passed and no ACF employee has become ill with COVID-19. Therefore, testing for the virus is not medically necessary. Nonetheless, to allay any employee anxiety, HHS will administer tests to deployed ACF employees who request it.
- HHS is conducting an ongoing, comprehensive internal investigation in response to the whistleblower's claims. HHS is also conducting an ongoing, comprehensive investigation into what protocols and procedures were followed at both facilities. This is an intensive process involving significant fact gathering. We understand Congress's desire for information and, for that reason and others, HHS is handling this situation with grave urgency. HHS will fully brief Congress and the public when it has completed its investigation.
- At this time, it would be premature to provide further details about the substance of the complaint, nor can HHS discuss personnel matters publicly.
- HHS welcomes and will cooperate fully with any reviews that may be conducted by the HHS Office of Inspector General into this, or related, matters.