



Case No. 2020-01390-FOIA-OS

Transmitted: foia@americanoversight.org

September 30, 2020

Ms. Christine Monahan
American Oversight
1030 15th Street NW
Suite B255
Washington, DC 20005

Dear Ms. Monahan:

This letter is the final response to your April 10, 2020, Freedom of Information Act (FOIA) request that you submitted to the Center for Disease Control and Prevention (CDC). On June 24, 2020, the CDC referred 18 pages to the Department of Health and Human Services (HHS) for direct response to you. Specifically, you requested the following records:

“1. “All records reflecting the content of the phone call on or about January 3, 2020 between George F. Gao, director of the Chinese Center for Disease Control and Prevention, via phone call to CDC Director Robert Redfield, including preparatory briefings, materials shared during the call, handwritten or electronic notes taken during the call, memoranda memorializing the call, read-outs of the call, or emails discussing the call.

2. All records reflecting the content of Director Redfield’s subsequent communication with HHS Secretary Alex Azar regarding Director Redfield’s phone call on or about January 3, 2020 with Director Gao, including any materials exchanged between Director Redfield and Secretary Azar, and any notes or memoranda memorializing this communication. (Date Range for Record Search: From 1/1/2020 To 1/9/2020).”

After a careful review of these pages, I have determined to release **one (1) page** to you in their entirety, and I am further releasing **17 pages** in part, with portions redacted, pursuant to Exemption (b)(5) and Exemption (b)(6) of the FOIA (5 U.S.C. §552 (b)(5) (b)(6)).

FOIA exemption (b)(5) protects inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency. This exemption protects documents that would be covered by any privilege an agency could assert in a civil proceeding. These privileges include, among others, the deliberative process privilege, the attorney-client privilege, and the attorney work-product privilege. In this instance, the deliberative process privilege applies.

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.

If you believe the information withheld should not be exempt from disclosure, or this response constitutes an adverse determination, you may appeal. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider your request and the agency's decision.

Your appeal must be postmarked or electronically transmitted within 90 calendar days of the date of this letter, to

Mr. Mark Weber
Acting Deputy Agency Chief FOIA Officer
U.S. Department of Health and Human Services
Office of the Assistant Secretary for Public Affairs
Room 729H
200 Independence Avenue, S.W.
Washington, DC 20201

Please clearly mark both the envelope and your letter "Freedom of Information Act Appeal."
You may also e-mail your appeal to: HHS.ACFO@hhs.gov.

If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact the HHS FOIA Public Liaison for assistance at:

HHS FOIA/PA Public Liaison
FOI/Privacy Acts Division
Assistant Secretary for Public Affairs (ASPA)
Office of the Secretary (OS)
U.S. Department of Health and Human Services (HHS)
200 Independence Avenue, SW, Suite 729H
Washington, DC 20201

Telephone: (202) 690-7453
Fax: (202) 690-8320
E-mail: HHS_FOIA_Public_Liaison@hhs.gov

If you are unable to resolve your FOIA dispute through our FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, MD 20740-6001

Telephone: 202-741-5770
Toll-Free: 1-877-684-6448
E-mail: ogis@nara.gov
Fax: 202-741-5769



There are no charges in this instance because the billable costs are less than our threshold of \$25.

Sincerely yours,

Wakema Williams for

Brandon J. Gaylord
Director
FOI/Privacy Acts Division

Enclosure(s)

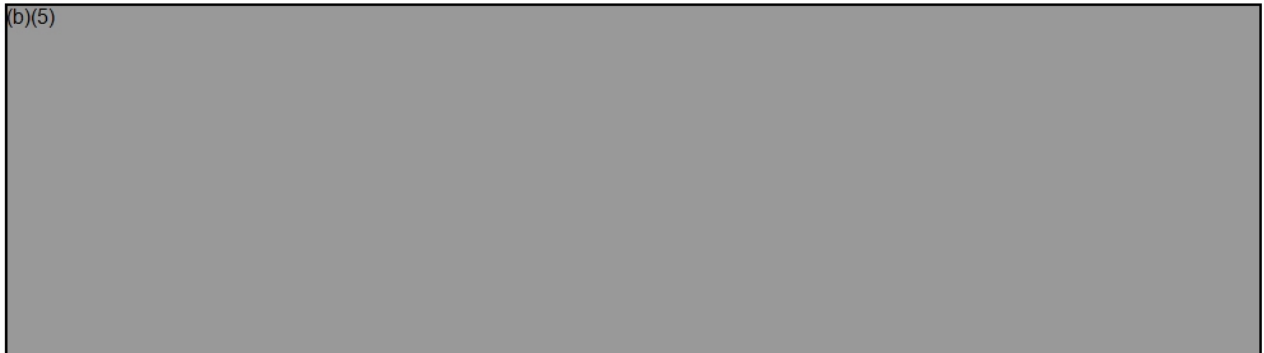
From: McGowan, Robert (Kyle) (CDC/OD/OCS)
Sent: 6 Jan 2020 14:08:37 +0000
Subject: Fwd: Night note item on China

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From: McGowan, Robert (Kyle) (CDC/OD/OCS) <omc2@cdc.gov>
Sent: Sunday, January 5, 2020 2:44 PM
To: Harrison, Brian (HHS/IOS); Dareshori, Zack (HHS/IOS)
Cc: Steele, Danielle (HHS/IOS); Kennedy, Veronica (CDC/OD/OCS); Watters, Sam (HHS/IOS); Mango, Paul (HHS/IOS)
Subject: Re: Night note item on China

Apologies for the second email. This paragraph has the updated numbers as of this morning.

(b)(5)



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Subject: RE: Night note item on China

Night note below. Let me know if you need anything else.

(b)(5)



(b)(5)

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Subject: Re: Night note item on China

Yes. We want a short blurb that goes in NN to WH

Brian Harrison
 Chief of Staff
 U.S. Department of Health and Human Services
 202.690.7000
brian.harrison@hhs.gov

On Jan 4, 2020, at 7:53 PM, Dareshori, Zack (HHS/IOS) <Zachary.Dareshori@hhs.gov> wrote:

Thanks Kyle. Maybe just an update on any further developments since they spoke,
 (b)(5) Adding Brian and Paul in case
 they have any further guidance

Zack Dareshori

(b)(6)

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Very much appreciated and Happy New Year

Zack Dareshori

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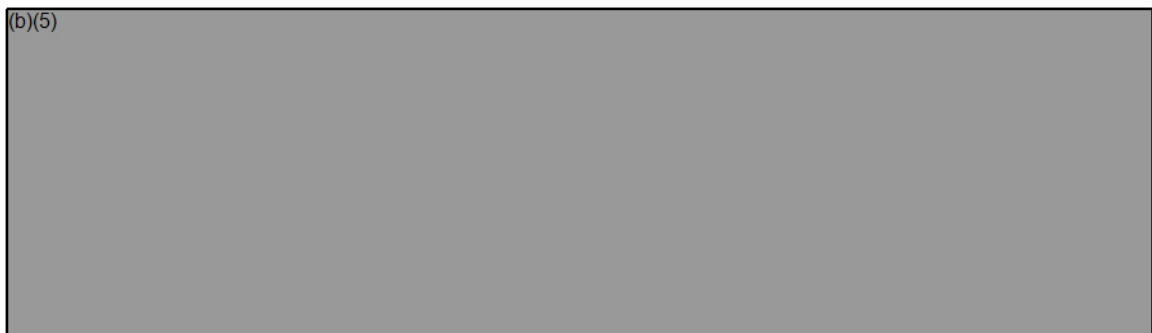


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Zack Dareshori

(b)(6)

Sent: 3 Jan 2020 23:03:53 +0000
Subject: George Gao - China, CDC

From: McGowan, Robert (Kyle) (CDC/OD/OCS)
Sent: 3 Jan 2020 21:24:14 +0000
To: Schmoyer, Michael (OS/ONS)
Cc: Grigsby, Garrett (HHS/OS/OGA)
Subject: Re: china pneumonia outbreak

We have not seen first hand the confirmed tests, but do believe (b)(5)

(b)(5)

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From: Schmoyer, Michael (OS/ONS) <Michael.Schmoyer@hhs.gov>
Sent: Friday, January 3, 2020 4:15 PM
To: McGowan, Robert (Kyle) (CDC/OD/OCS)
Cc: Grigsby, Garrett (HHS/OS/OGA)
Subject: Re: china pneumonia outbreak

Thank you, just heard about this. It looks like CDC has a high degree of confidence on this, correct?

(b)(5)

Very respectfully,

Michael Schmoyer, Ph.D
 National Security Advisor to the Secretary
 Director, Office of National Security
 CAPT, USPHS
SchmoyerM@HHS.ID.IC.GOV
 VOIP: [936-2129](tel:936-2129)

On Jan 3, 2020, at 4:12 PM, McGowan, Robert (Kyle) (CDC/OD/OCS) <omc2@cdc.gov> wrote:

□

I wanted to give this to you both as an FYI. Let me know if you have questions.

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Sent: Friday, January 3, 2020 4:06 PM

To: Harrison, Brian (HHS/IOS); Steele, Danielle (HHS/IOS)
Subject: Fwd: china pneumonia outbreak

Hey Brian, Dr. Redfield did chat with the Secretary. Redfield is also going to try to chat with the head of the Chinese CDC(George GAO) and Tedros to try to get more information. We will keep you posted as we learn more. Also, below are some recommendations that our folks are encouraging us to consider. Please let me know if you have questions.

Kyle

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Sent: Friday, January 3, 2020 3:56 PM
To: McGowan, Robert (Kyle) (CDC/OD/OCS)
Cc: Schuchat, Anne MD (CDC/OD); Berger, Sherri (CDC/OCOO/OD)
Subject: china pneumonia outbreak

Kyle,

Based on the official accounts and the available information, we believe

(b)(5)



Nancy

From: Harrison, Brian (HHS/IOS)
Sent: 3 Jan 2020 21:19:52 +0000
To: McGowan, Robert (Kyle) (CDC/OD/OCS)
Cc: Steele, Danielle (HHS/IOS); Grigsby, Garrett (HHS/OS/OGA); Kadlec, Robert (OS/ASPR/IO); Schmoyer, Michael (OS/ONS); Mango, Paul (HHS/IOS); Stecker, Judy (OS/IOS)
Subject: Re: china pneumonia outbreak

Thx. OGA is alerting the NSC.

+others

On Jan 3, 2020, at 4:07 PM, McGowan, Robert (Kyle) (CDC/OD/OCS) <omc2@cdc.gov> wrote:

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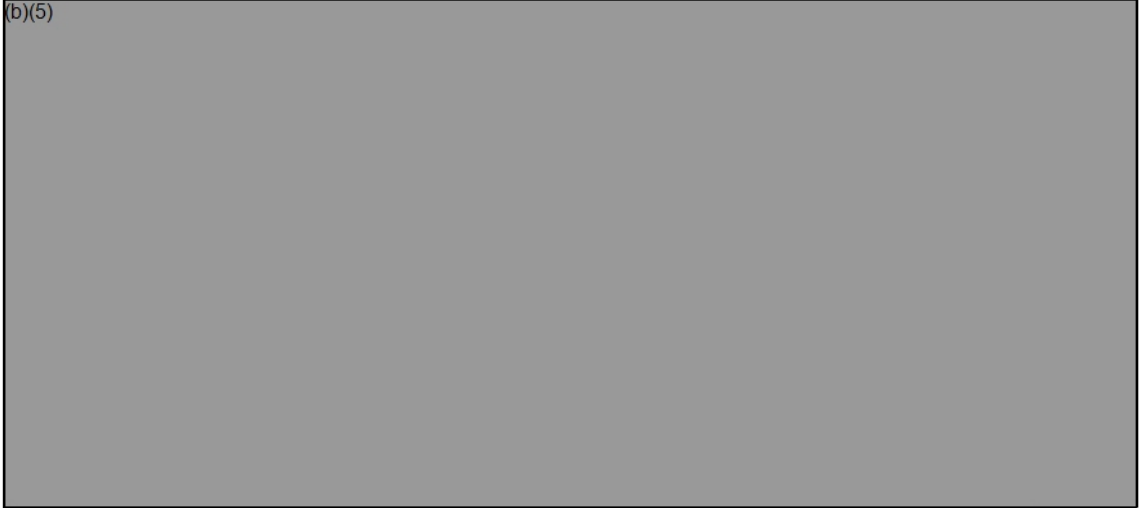
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