



TEL: (936) 327-6868
www.polkcountyda.com

WILLIAM LEE HON
CRIMINAL DISTRICT ATTORNEY

FAX: (936) 327-6875 - FELONY
DIVISION

FAX: (936) 327-6862 - MISDEMEANOR
DIVISION

POLK COUNTY, TEXAS
101 W. Mill St., Ste. 247 •
LIVINGSTON, TEXAS 77351
POLK COUNTY JUDICIAL BUILDING

March 30, 2021

Emma Lewis
American Oversight
1030 15th Street NW, Suite B255
Washington, DC 20005

Re: *Public Information Act request dated 3-18-21; ex rel. winter storm records*

Ms. Lewis:

Based on your request for public information, the Polk County District Attorney's office has located information responsive to your request. This information is provided with this letter and includes a copy of your original request. Additionally, there are no charges for fulfilling this request and this particular request is considered closed.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tommy L. Coleman".

Tommy L. Coleman
Assistant Criminal District Attorney

enclosures

via first-class mail



March 18, 2021

VIA EMAIL

Polk County Sheriff's Office
1733 N. Washington Ave.
Livingston, TX 77351
Lisa.valderez@polkcountysos.net

Re: Public Information Request

Dear Public Information Officer:

Pursuant to the Texas Public Information Act, as codified at Tex. Code ch. 552, American Oversight makes the following request for public records.

A winter storm in Texas left millions without power since February 15, 2021.¹ The power outages are a result of extreme cold, high energy demand, and overloaded, frozen utility plants.² American Oversight seeks records with the potential to shed light on the impact of the slow storm on inmates held in the Polk County Jail during the storm.

Requested Records

American Oversight requests that the Polk County Sheriff's Office promptly produce the following:

All records (such as reports, memoranda, presentations, or data compilations) reflecting assessments or analyses regarding the impact of the February 2021 winter storm on the population held in the Polk County Jail.

Please provide all responsive records from February 8, 2021, through the date a search is conducted.

American Oversight seeks all responsive records regardless of format, medium, or physical characteristics. In conducting your search, please understand the term "record" in its broadest sense, to include any written, typed, recorded, graphic, printed, or audio

¹ Russell Gold & Katherine Blunt, *Texas Power Outages to Drag Into Third Day as Deep Freeze Persists*, Wall St. J. (Feb. 16, 2021, 6:50 PM), <https://www.wsj.com/articles/texas-power-outages-after-deep-freeze-prompt-governor-to-urge-probe-11613513090>.

² Ryan Miller, *'Massive Failure': Why Are Millions of People in Texas Still Without Power?*, USA Today (Feb. 16, 2021, 3:57 PM), <https://www.usatoday.com/in-depth/news/nation/2021/02/16/texas-weather-power-outage-rolling-blackouts-leave-millions-dark/6764764002/>.



1030 15th Street NW, Suite B255, Washington, DC 20005 | AmericanOversight.org

material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages and transcripts, notes, or minutes of any meetings, telephone conversations or discussions. Our request includes any attachments to these records. **No category of material should be omitted from search, collection, and production.**

In addition, American Oversight insists that your office 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; governmental authorities may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.**

Please search all records regarding official business. **You may not exclude searches of files or emails in the personal custody of your officials, such as personal email accounts.** Emails conducting government business sent or received on the personal account of a governmental authority's officer or employee constitutes a record for purposes of the Texas Public Information Act.³

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 your office 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

³ Tex. Code § 552.002(a-2); see also *Adkisson v. Paxton*, 459 S.W.3d 761, 773 (Tex. App. 2015).

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.

Fee Waiver Request

In accordance with Tex. Code § 552.267(a), American Oversight requests a waiver of fees associated with processing this request for records because such a waiver “is in the public interest because providing the copy of the information primarily benefits the general public.” The requested records are directly related to the work of county officials, with the potential to shed light on the impact on the jail population of the crisis caused by the winter storm in February 2021. This is a subject of substantial public interest in Texas.⁴ Accordingly, release of records that may help the public understand the operations and activities of county officials is in the public interest.

Release of the requested records will primarily benefit the public.⁵ As a 501(c)(3) nonprofit, American Oversight does not have a commercial purpose and the release of the requested records is not in American Oversight’s financial interest, but is rather in the public interest. American Oversight is committed to transparency and makes the responses governmental authorities provide to public records requests publicly available. As noted, the subject of this request is a matter of public interest, and the public would benefit from an enhanced understanding of the government’s activities through American Oversight’s analysis and publication of these records. 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. 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.⁶

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through numerous substantive analyses posted to its website.⁷ Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to the organization’s investigations into misconduct and corruption in state governments;⁸ the posting of records related to the Trump Administration’s contacts

⁴ Shepherd, *supra* note 2; Jolie McCullough, *Texas Jails and Prisons See Brutal Cold and Overfilled Toilers in Winter Storm*, Texas Trib. (Feb. 18, 2021, 6:00 PM), <https://www.texastribune.org/2021/02/18/texas-jails-prisons-winter-storm/>.

⁵ Tex. Code § 552.267(a).

⁶ American Oversight currently has approximately 15,700 followers on Facebook and 106,100 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Mar. 17, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Mar. 17, 2021).

⁷ *News*, American Oversight, <https://www.americanoversight.org/blog>.

⁸ *State Investigations*, American Oversight, <https://www.americanoversight.org/states>.

with Ukraine and analyses of those contacts,⁹ posting records and editorial content about the federal government's response to the Coronavirus pandemic;¹⁰ posting records received as part of American Oversight's "Audit the Wall" project to gather and analyze information related to the administration's proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;¹¹ the posting of records related to an ethics waiver received by a senior U.S. Department of Justice attorney and an analysis of what those records demonstrated regarding the Department's process for issuing such waivers;¹² and posting records and analysis of federal officials' use of taxpayer dollars to charter private aircraft or use government planes for unofficial business.¹³

Accordingly, American Oversight qualifies for a fee waiver. If your office denies our request for a fee waiver, please notify American Oversight of any anticipated fees or costs in excess of \$40 prior to incurring such costs or fees.

Conclusion

We share a common mission to promote transparency in government. American Oversight looks forward to working with your county 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 Emma Lewis at records@americanoversight.org or (202) 919-6303. Also, if American Oversight's

⁹ *Trump Administration's Contacts with Ukraine*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-contacts-with-ukraine>.

¹⁰ *See generally The Trump Administration's Response to Coronavirus*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-response-to-coronavirus>; *see, e.g., CDC Calendars from 2018 and 2019: Pandemic-Related Briefings and Meetings*, American Oversight, <https://www.americanoversight.org/cdc-calendars-from-2018-and-2019-pandemic-related-briefings-and-meetings>.

¹¹ *See generally Audit the Wall*, American Oversight, <https://www.americanoversight.org/investigation/audit-the-wall>; *see, e.g., Border Wall Investigation Report: No Plans, No Funding, No Timeline, No Wall*, American Oversight, <https://www.americanoversight.org/border-wall-investigation-report-no-plans-no-funding-no-timeline-no-wall>.

¹² *DOJ Records Relating to Solicitor General Noel Francisco's Recusal*, American Oversight, <https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance>; *Francisco & the Travel Ban: What We Learned from the DOJ Documents*, American Oversight, <https://www.americanoversight.org/francisco-the-travel-ban-what-we-learned-from-the-doj-documents>.

¹³ *See generally Swamp Airlines: Chartered Jets at Taxpayer Expense*, American Oversight, <https://www.americanoversight.org/investigation/swamp-airlines-private-jets-taxpayer-expense>; *see, e.g., New Information on Pompeo's 2017 Trips to His Home State*, American Oversight, <https://www.americanoversight.org/new-information-on-pompeos-2017-trips-to-his-home-state>.

request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,

/s/ Emma Lewis
Emma Lewis
on behalf of
American Oversight

Patrick Dickens

From: Patrick Dickens <patrick.dickens@polkcountysonet.net>
Sent: Wednesday, March 3, 2021 7:47 AM
To: 'will.turner@tcjs.state.tx.us'
Cc: 'Byron Lyons'
Subject: response to "current Conditions"

The following is in response to Ms. Wisneski's request for information concerning effects to the Polk Co. Jail by the most recent winter storm:

1. Did your facility lose normal power during the time period of 14 Feb to 19 Feb? No
2. If so, did your emergency generator function properly? N/A
3. If you lost power, is your heat on the emergency generator circuit? (this is not a requirement and is only for survey purposes) Yes
4. If you did not have heat, how did you address the temperature issue? (this is for survey purposes only and not for compliance) We did pass out extra blankets although we did not loose heating.
5. Did you lose water to your facility? Only by scheduled event by the City of Livingston Utility Department
6. If so, how did you address meal prep and service, provision of drinking water, and use of toilets during the loss? Because we were on a schedule we were able to prepare and provide regular menu food items, provide drinking water, and flush the septic system.

Patrick Dickens
Jail Administrator
Polk County Sheriff's Office

Patrick Dickens

From: Wendy Wisneski <wendy.wisneski@tcjs.state.tx.us>
Sent: Friday, February 26, 2021 8:03 AM
To: Chris White ; dveach@milamcounty.net; Clint Hammonds ; ptorrez@co.mills.tx.us; Marshall Thomas ; Jean Meyers (jmeyers@montaguesheriff.com); Rand Henderson; Eason, Andrew; Jack Martin; Gwen Knight ; Jason Bridges; David Crisp ; Elmer L. Tanner; Charlie York; Robert Burby ; bobbie.smith@co.newton.tx.us; John Hooper ; martin.arnold@nuecesco.com; Brent Warden ; Chad Harris (chad.harris@co.oldham.tx.us); Lane Mooney ; Jim Eiselstein - Orange Co. Sheriff's Office (jeiselstein@co.orange.tx.us); brett.mcguire@co.palo-pinto.tx.us; Gregg Doyle; Kevin Lake; tina.mcmullen@co.panola.tx.us; rking@lasallecorrections.com; Randy Geries; otis.carpenter@parmercounty.net; TJ Perkins ; Abby Leyva; Byron Lyons; Patrick Dickens (patrick.dickens@polkcountysos.net); Brian Thomas; Steven White; Danny Dominguez; Gracie Parras; David Traylor; Nancy Ray; Nathan Johnson ; kmanchester@co.real.tx.us
Subject: FW: Short Survey regarding Winter Storm

Sheriffs & Jail Administrators,

We are attempting to gather information regarding the impact the recent winter storm had on our county jails. This information will NOT be used "against you" meaning we will not be gathering it in an effort to issue a stack of notices of non-compliance. If anything, the information will further reinforce what I have been telling those who ask: our jails know how to handle emergencies and they are better prepared than the general public and most if not all government operations when it comes to something like this.

Please help us by responding to this short survey. Your assistance is greatly appreciated and I look forward to seeing you in May at the next Texas Jail Association Conference and/or Sheriff's Association Annual Conference as I believe the conditions will have improved enough by then that we almost think it's normal, whatever that is.

1. Did your facility lose normal power during the time period of 14 Feb to 19 Feb?
2. If so, did your emergency generator function properly?
3. If you lost power, is your heat on the emergency generator circuit? (this is not a requirement and is only for survey purposes)
4. If you did not have heat, how did you address the temperature issue? (this is for survey purposes only and not for compliance)
5. Did you lose water to your facility?
6. If so, how did you address meal prep and service, provision of drinking water, and use of toilets during the loss?

There is no specific form or format to send your responses; just reply back to this email. Please send your responses to Will Turner will.turner@tcjs.state.tx.us no later than Friday, March 5, 2021.

Brandon S. Wood
Executive Director
Texas Commission on Jail Standards

William Jerry

From: William Jerry <wjerry@polkcounttyso.net>
Sent: Thursday, February 18, 2021 10:47 AM
To: 'Byron Shelton'
Subject: RE: Current Conditions

Good Morning

Currently at this time we are doing the Mandatory Boil Water notice that was put out by the City of Livingston. Currently we are boiling 100 gallons of water every 30 minutes or as needed for consumption and we do have bottle water on hand if needed . As far as the toilets we are pressure raising the system and flushing them as the system allows it . We are sticking to our regular meal schedule at this time . Feel free to contact me if you should have any more questions or concerns regarding these matters.

Thank you

Jerry

From: Byron Shelton <byron.shelton@tcjs.state.tx.us>
Sent: Thursday, February 18, 2021 6:43 AM
To: wjerry@polkcounttyso.net
Subject: Current Conditions

Good morning Captain Jerry, I'm trying to find out what is being done about the water situation at this time. Are you all providing bottled water to inmates? How are toilets being flushed ? Lastly, what are the inmates being fed? I understand these are difficult times but just ensuring that some effort is being made to address common every day needs. Thank you for all that you are doing and look forward to hearing from you soon. Definitely prayers for you, the staff as well as the inmate population during these most difficult times.

Respectfully,

Mr. Byron Shelton
Inspector
Texas Commission on Jail Standards
(512)799-6648 – State Mobile
(512)463-3185 – Office Fax
Byron.Shelton@tcjs.state.tx.us



[Print](#) | [Close Window](#)

Subject: Polk County Jail - Issue due to Inclement Weather

From: wjerry@polkcountysos.net

Date: Wed, Feb 17, 2021 3:01 pm

To: "byron.shelton@tcjs.state.tx.us" <byron.shelton@tcjs.state.tx.us>

Cc: "byron lyons" <blyons@polkcountysos.net>, "Rickie Childers" <rchilders@polkcountysos.net>

Inspector Shelton,

On Wednesday, February 17, 2021 I contacted you, Inspector Shelton, with the Texas Commission on Jail Standards and introduced myself as William Jerry, Jail Administrator with the Polk County Jail. I then proceeded to inform you of the following issues that presented due to the Winter Storm sweeping across our area and the state of Texas.

The inclement weather that we are currently experiencing has caused our fire suppression system to freeze and burst and also caused a mechanical issue with our Number 2 Boiler which has negatively impacted our heating system.

I contacted you because our average temperature checks were 63 degrees Fahrenheit which is below the 65 degrees Fahrenheit recommended by the Texas Commission on Jail Standards. In response to this issue we distributed extra blankets to all inmates housed in tanks that were affected by the mechanical issue with our Number 2 Boiler. To combat the issues with the fire suppression system we have made our fire hoses available with easy access and enacted our fire watch system. We are currently conducting fire watches every 30 minutes to ensure safety procedures.

I was advised by you that we are doing everything we can under such extreme circumstances. We at the Polk County Sheriff's Office will continue to take the concerns and safety of our incarcerated population extremely serious and do whatever necessary for the safety of our incarcerated individuals entrusted to our care.

If you should have any further questions or concerns regarding this matter, do not hesitate to contact me.

Cpt. William Jerry
Polk County Sheriff's Office
Jail Administrator
(936) 329-9036
wjerry@polkcountysos.net

Copyright © 2003-2021. All rights reserved.

[<<Prev Rule](#)

[Next Rule>>](#)

Texas Administrative Code

<u>TITLE 37</u>	PUBLIC SAFETY AND CORRECTIONS
<u>PART 9</u>	TEXAS COMMISSION ON JAIL STANDARDS
<u>CHAPTER 261</u>	EXISTING CONSTRUCTION RULES
<u>SUBCHAPTER A</u>	EXISTING MAXIMUM SECURITY DESIGN, CONSTRUCTION AND FURNISHING REQUIREMENTS
RULE §261.160	Temperature Control

Temperature levels shall be reasonably maintained between 65 degrees Fahrenheit and 85 degrees Fahrenheit in all occupied areas.

Source Note: The provisions of this §261.160 adopted to be effective December 19, 1994, 19 TexReg 9526.

HOME
TEXAS REGISTER
TEXAS ADMINISTRATIVE CODE
OPEN MEETINGS