

September 22, 2020

SENT BY: [online FOIA portal](#)

FOIA Officer, MS-D54
1600 Clifton Road, N.E.
Atlanta, GA 30333

Re: Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of Health and Human Services regulations.

Specifically, CREW requests all internal communications within CDC and external communications outside the agency regarding the following changes to CDC's COVID-19 guidelines and recommendations:

1. The change in testing recommendations on the [“Overview of Testing for SARS-CoV-2 \(COVID-19\)” page](#) the week of August 26th.
2. Changes made to the [“Overview of Testing for SARS-CoV-2 \(COVID-19\)” page](#) on September 18, 2020, August 24, 2020, July 17, 2020, and July 2, 2020.
3. The removal of guidance about airborne coronavirus transmission on the [“How COVID-19 Spreads” page](#) in September 2020.
4. All changes to the [“Coronavirus Disease 2019 \(COVID-19\)” page](#), including all subsections (for example: “Testing” and “Clinical Care”).
5. All other changes to the [Centers for Disease Control and Prevention website](#) regarding Coronavirus information for the public since March 1, 2020.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, as well as those who were cc’ed or bcc’ed on any emails.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v.*

Rosen, 484 F.2d 820 (D.C. Cir. 1973). 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. *See* 5 U.S.C. § 552(b). 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. *See Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

Please be advised that CREW intends to pursue all legal remedies to enforce its right under the FOIA to access these documents. Accordingly, because litigation reasonably is foreseeable, the CDC should institute an agency-wide preservation hold on documents potentially responsive to this request.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and CDC regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. *See* 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. *See, e.g., McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

As the Coronavirus Pandemic has evolved, there have been many changes in recommendations to the public from the CDC. However, recently the CDC has made changes that seem to directly contradict previous statements made by CDC officials. These decisions are concerning as they could potentially have been made as the result of political influence.

On August 26th, it was reported that the CDC had abruptly changed guidelines regarding when to get tested.¹ According to ABC News, this contradicts CDC Director Robert Redfield's previous statement suggesting that anyone who thinks they could possibly be infected should get a test.² Additionally, CNN reported on the week of September 21st that the CDC was removing guidelines it had posted on Friday, September 18th.³ According to CNN, this seems to contradict

¹ Anne Flaherty and Sophie Tatum, [In stunning reversal, CDC abruptly changes position on when to get tested](https://abcnews.go.com/Politics/stunning-reversal-cdc-abruptly-position-tested/story?id=72621714), *ABC News*, August 26, 2020, available at

<https://abcnews.go.com/Politics/stunning-reversal-cdc-abruptly-position-tested/story?id=72621714>.

² Anne Flaherty and Sophie Tatum, [In stunning reversal, CDC abruptly changes position on when to get tested](https://abcnews.go.com/Politics/stunning-reversal-cdc-abruptly-position-tested/story?id=72621714), *ABC News*, August 26, 2020, available at

<https://abcnews.go.com/Politics/stunning-reversal-cdc-abruptly-position-tested/story?id=72621714>.

³ Jamie Gumbrecht, Jen Christensen, Elizabeth Cohen and Naomi Thomas, [CDC abruptly removes guidance about airborne coronavirus transmission, says update 'was posted in error'](#), *CNN Health*,

many scientists' urging for the acknowledgement of airborne transmissions.⁴ Overall, there seems to be inconsistencies with regard to the decisions being made within the CDC that could potentially be the result of political decisions. It is therefore important that the public has the information requested above in order to see who is making and/or influencing the vital decisions regarding the COVID-19 pandemic response.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, www.citizensforethics.org. The release of information obtained through this request is not in CREW's financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public").

CREW routinely and systematically disseminates information to the public in several ways. CREW's website receives tens of thousands of page views every month. The website includes blog posts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts the documents it receives under the FOIA on its website, which has been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (856)-417-6821 or cknechtel@citizensforethics.org and

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<https://www.cnn.com/2020/09/21/health/cdc-reverts-airborne-transmission-guidance/index.html>.

⁴ Jamie Gumbrecht, Jen Christensen, Elizabeth Cohen and Naomi Thomas, CDC abruptly removes guidance about airborne coronavirus transmission, says update 'was posted in error', *CNN Health*,

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<https://www.cnn.com/2020/09/21/health/cdc-reverts-airborne-transmission-guidance/index.html>.

copy hhammado@citizensforethics.org. Where possible, please produce records in electronic format. Please send the requested records to me at cknechtel@citizensforethics.org and copy hhammado@citizensforethics.org.

Sincerely,

A handwritten signature in black ink that reads "Chase Knechtel". The signature is written in a cursive style with a large initial 'C' and a prominent 'K'.

Chase Knechtel