



BY EMAIL: cora.request@coag.gov

May 27, 2020

Office of the Attorney General
Colorado Department of Law
Ralph L. Carr Judicial Building
1300 Broadway, 10th Floor
Denver, CO 80203
cora.request@coag.gov
(720) 508-6000

Re: Open Records Act Information Request

Dear CORA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records, regardless of format, medium, or physical characteristics pursuant to the Colorado Open Records Act (“CORA”) (§ 24-72-201 to 206, C.R.S.) and applicable law.

Specifically, CREW seeks:

1. All communications from April 13, 2020 to the date this request is processed between your office and the Department of Public Health and Environment regarding the governor’s plan to reopen the State of Colorado.
2. All communications from April 13, 2020 to the date this request is processed within your office and members of the Economic Stabilization and Growth Council regarding the governor’s plan to reopen the State of Colorado.
3. All communications from April 13, 2020 to the date this request is processed between your office and the White House, or representatives of the White House regarding the governor’s plan to reopen the State of Colorado.
4. All communications from April 13, 2020 to the date this request is processed between your office and the U.S. Department Health and Human Services (HHS) including its component agencies the Federal Drug Administration (FDA) and Centers for Disease Control and Prevention (CDC), regarding the governor’s plan to reopen the State of Colorado.
5. All communications from April 13, 2020 to the date this request is processed between your office and the U.S. State Department, or representatives of the State Department,

including but not limited to Dr. Deborah Birx, regarding the governor's plan to reopen the State of Texas.

6. All communications from April 13, 2020 to the date this request is processed between your office and the U.S. Department of Homeland Security (DHS), including its component agencies, including but not limited to the Federal Emergency Management Agency (FEMA), regarding the governor's plan to reopen the State of Colorado.

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, and email recipients who were cc'ed or bcc'ed.

If this office is not the custodian of the requested records, please forward the request to the appropriate department, office, or entity in possession or custody of the records.

If there are any fees for searching or copying these records, please inform CREW if the cost will exceed \$100. However, CREW also requests a waiver of all fees because the disclosure of the requested information is in the public interest. The public is entitled to information around what risk opening up the state poses to the public and to what extent the office sought advice from the federal government in making the decision. Further, this information is not being sought for commercial purposes.

On April 29, 2020, Governor Polis began the process of reopening the state of Colorado against the advice of public health experts.¹ On May 13, 2020, President Trump met with Governor Polis and applauded his decision to reopen Colorado.² Apparently, in the same conversation, Trump also "hinted that he and Polis would also discuss the future of Space Command."³ Colorado is reportedly currently lobbying to be the permanent home of this new military branch, raising questions around if the governor has other incentives to reopen the state earlier than is safe.⁴

On May 4, 2020, Governor Polis mentioned in a press briefing that he had spoken with Vice President Mike Pence and discussed an increase in testing, with a goal of 8,500 coronavirus tests

¹ Peter Sullivan, [In Colorado, it's a progressive governor starting to reopen](https://thehill.com/homenews/state-watch/495167-in-colorado-its-a-progressive-governor-starting-to-reopen), *The Hill*, April 28, 2020, available at <https://thehill.com/homenews/state-watch/495167-in-colorado-its-a-progressive-governor-starting-to-reopen>.

² Caitlyn Kim, [Trump Praises Colorado's Reopening In Meeting With Polis And Gardner](https://www.cpr.org/2020/05/13/trump-praises-colorados-reopening-in-meeting-with-governors/), *CPR News*, May 13, 2020, available at <https://www.cpr.org/2020/05/13/trump-praises-colorados-reopening-in-meeting-with-governors/>.

³ Ibid.

⁴ Ibid.

daily by the end of the month.⁵ However, ten days before the end of the month, the state had only reached 5,000 tests daily, falling short of the “152-per-100,000 daily number that health experts say is necessary to safely monitor the outbreak.”⁶

The requested records would provide clearer insight into the rationale around reopening Colorado, the role that both industry groups and the White House have played, and reasoning around excluding elected officials in the governor’s response. There is a heightened interest in the extent that Colorado is following recommendations from the federal government and if the state is rigorously following science-based guidance around the coronavirus pandemic given that the United States has the most reported cases of coronavirus in the world.

The law requires that this request be responded to and fulfilled promptly, barring extenuating circumstances (Colorado Open Records Act (“CORA”) (§ 24-72-201 to 206, C.R.S.)). If access to the records CREW is requesting will take an extended period of time, please contact CREW with a written explanation that states when the requested record will be produced and specifies with particularity why the records cannot be produced.

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at mosuga@citizensforethics.org. CREW also welcomes the opportunity to discuss with you whether and to what extent this request can be narrowed or modified to allow for better processing within Colorado state law deadlines. If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify CREW of the appeal procedures available under the law.

Where possible, please produce records in electronic format. Please send the requested records to mosuga@citizensforethics.org. If the records cannot be produced electronically, please contact me and I will provide a mailing address. Thank you for your assistance in this matter.

Sincerely,



Miru Osuga

⁵ Kati Weis, [Gov. Jared Polis Outlines Reopening Businesses Amid Safer-At-Home Phase](https://denver.cbslocal.com/2020/05/04/coronavirus-jared-polis-colorado-safer-home/), *CBS Denver*, May 4, 2020, available at <https://denver.cbslocal.com/2020/05/04/coronavirus-jared-polis-colorado-safer-home/>

⁶ Sam Tabachnik, [Colorado hits 5,000-a-day testing threshold as confirmed coronavirus cases surpass 23,000](https://www.denverpost.com/2020/05/21/coronavirus-covid-colorado-new-cases-deaths-may-21/), *The Denver Post*, May 21, 2020, available at <https://www.denverpost.com/2020/05/21/coronavirus-covid-colorado-new-cases-deaths-may-21/>

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