Via email

DEPARTMENT OF DEFENSE
OSD/JS FOIA Requester Service Center
Office of Freedom of Information
1155 Defense Pentagon
Washington, DC 20301-1155
Email: whs.mc-alex.esd.mbx.osd-js-foia-requester-service-center@mail.mil

Re: Freedom of Information Act Request
Expedited Processing and Fee Waiver Requested

To whom it may concern:

This letter constitutes a request (³Request´) pursuant to the Freedom of Information Act (³FOIA´), 5 U.S.C. § 552 submitted on behalf of the Open Society Justice Initiative (³Justice Initiative´), an operational program of the Open Society Institute (³OSI´), a New York State charitable trust and nonprofit organization. We request records concerning the timing and substance of the Executive Branch¶s response to the novel coronavirus, now known as severe acute respiratory syndrome coronavirus 2 or “SARS-CoV-2,” the virus that causes the disease known as coronavirus disease 2019 or “COVID-19.”¹ We respectfully ask that requests contained herein be forwarded to any other component agency as appropriate.

Expedited processing is requested pursuant to 5 U.S.C. § 552(a)(6)(E), as is a fee waiver, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii).

A. RECORDS REQUESTED

The Justice Initiative requests disclosure of the following records:²


² For the purpose of this request, the term “records” includes, but is not limited to, any and all agendas, agreements; analyses; calendars; correspondence; data; databases; directives; documents; e-mails and e-mail attachments, including sent through personal email accounts (e.g., Gmail); reports; rules; schedules; studies; tables of contents and contents of binders; talking points; technical specifications; training materials; examinations; faxes; files; guidance; guidelines; evaluations; instructions; letters; manifests; manuals; memoranda; notes; orders; prepared documentation for meetings, calls, teleconferences, or other discussions responsive to our request; policies; procedures; protocols; text messages and messages sent or received through other messaging applications (e.g., WhatsApp, iMessage, Signal); voicemails; and any other materials. In the event that such records once existed but have now been destroyed, please disclose any records that are integrally related to, summarize, or are interchangeable with said records. Press clippings and news articles that are unaccompanied by any commentary need not be produced.
I. Notice of SARS-CoV-2 and COVID-19

1. Records indicating when the Executive Branch was first informed of what is now known as SARS-CoV-2 and/or COVID-19.
2. Records indicating when the Executive Branch’s response when it was first informed of what is now known as SARS-CoV-2 and/or COVID-19.
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4. Records indicating President Trump’s response when he was first informed of what is now known as SARS-CoV-2 and/or COVID-19.
5. Records including and/or discussing communications (before March 1, 2020) to and from the National Center for Medical Intelligence (“NCMI”) about what is now known as SARS-CoV-2 and/or COVID-19.3
6. Records including and/or discussing January 2020 communications to and from a State Department epidemiologist about what is now known as SARS-CoV-2 and/or COVID-19.4
7. Records including and/or discussing January 2020 communications between Robert Redfield, Director, Centers for Disease Control and Prevention, and Chinese officials about what is now known as SARS-CoV-2 and/or COVID-19.5
8. Records including and/or discussing communications (from January 1, 2020 to February 29, 2020) between Alex Azar, Secretary, Health and Human Services, and President Donald Trump about what is now known as SARS-CoV-2 and/or COVID-19.6
9. Records including and/or discussing communications (from January 1, 2020 to February 29, 2020) to and from Dr. Carter Mecher, senior medical advisor, Department of Veterans Affairs, about what is now known as SARS-CoV-2 and/or COVID-19.7
10. Records including and/or discussing communications (from January 1, 2020 to March 31, 2020) to and from Robert Kadlec, Assistant Secretary for Preparedness and Response, about asymptomatic cases spreading what is now known as SARS-CoV-2 and/or COVID-19.8
11. Records discussing communications (from January 1, 2020 to February 29, 2020) from Peter Navarro, President Trump’s trade advisor, about what is now known as SARS-CoV-2 and/or COVID-19.9

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7 Id.
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14. Records discussing immunity to what is now known as SARS-CoV-2 and/or COVID-19 in the U.S.\(^{13}\)

15. Records discussing the timing and duration of social distancing measures in the U.S.\(^{14}\)

16. Records concerning extraordinary presidential authority, including but not limited to “presidential emergency actions” relating to what is now known as SARS-CoV-2 and/or COVID-19.\(^{15}\)

17. Records indicating dates and agendas for meetings and decisions of the official White House coronavirus task force during January and February 2020.\(^{16}\)

18. Records including and/or discussing “Four steps to mitigation,” a February/March 2020 plan for addressing what is now known as SARS-CoV-2 and/or COVID-19.\(^{17}\)

19. Records including and/or discussing a February 2020 document titled “U.S. Government Response to the 2019 Novel Coronavirus.”\(^{18}\)

20. Records including and/or discussing communications to or from Dr. Nancy Messonnier, Director of the National Center for Immunization and Respiratory Diseases, about her February 25, 2020 public warning about what is now known as SARS-CoV-2 and/or COVID-19.\(^{19}\)

21. Records discussing Remdesivir, Chloroquine, Hydroxychloroquine (“Plaquenil”), Azithromycin (“Zithromax”) and/or other drugs or substances, such as disinfectants, for treating what is now known as SARS-CoV-2 and/or COVID-19.\(^{20}\)

22. Records discussing federal officials’ questioning of and/or divergence from President Trump’s public positions regarding what is now known as SARS-CoV-2 and/or COVID-19, including but not limited to records concerning Dr. Rick Bright, Director of the Biomedical Advanced Research and Development Authority, and Dr. Anthony Fauci, Director of the National Institute of Allergy and Infectious Diseases.\(^{21}\)

23. Records discussing in-person and/or mail-in voting in the context of what is now known as SARS-CoV-2 and/or COVID-19.\(^{22}\)

24. Records including and/or discussing instructions to classify meetings and/or records relating to what

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25. Communications between your agency and the White House regarding what is now known as SARS-CoV-2 and/or COVID-19.

26. Communications between the Executive Branch and non-government entities (including but not limited to private-sector companies, academic institutions and/or individuals) capable of developing tests, or assisting in testing, for what is now known as SARS-CoV-2 and/or COVID-19.

III. Executive Branch SARS-CoV-2 and COVID-19 Communications with Congress, State Governors, and the WHO

27. Records including and/or discussing communications (before March 1, 2020) between any member of the Executive Branch and Congress regarding what is now known as SARS-CoV-2 and/or COVID-19, including but not limited to briefings to Congress, members of Congress, Congressional Committees or Subcommittees, and/or Congressional staff about what is now known as SARS-CoV-2 and/or COVID-19.

28. Records including and/or discussing communications between the White House and a state governor or his/her office about the timing and duration of social distancing measures and federal assistance to states for what is now known as SARS-CoV-2 and/or COVID-19, including but not limited to any direct financial assistance and assistance on medical supplies and equipment (including but not limited to drugs, ventilators, and vaccines), personal protective equipment (PPE), masks and testing for what is now known as SARS-CoV-2 and/or COVID-19.

29. Records including and/or discussing communications between the Executive Branch and the World Health Organization ("WHO") about what is now known as SARS-CoV-2 and/or COVID-19.

B. BACKGROUND

The earliest known case of COVID-19 (the disease caused by what is now known as SARS-CoV-2) reportedly can be traced back to November 17, 2019, in Hubei province, China. By December 31, 2019, health officials in Wuhan posted a notice that they were investigating an outbreak of pneumonia in the city, and the World Health Organization ("WHO") acknowledged that on that date it "was informed of a cluster of cases of pneumonia of unknown cause." As of January 3, 2020, Chinese authorities reported a total of 44 patients with pneumonia of unknown etiology to the WHO.

Media reports provide varying accounts of when the U.S. Executive Branch first received notice of what is now known as SARS-CoV-2. ABC News reported, for example, that a November intelligence report by the military’s National Center for Medical Intelligence ("NCMI") detailed concerns about what is now known as SARS-CoV-2, and the report “was briefed multiple times” to the Defense Intelligence Agency ("DIA"), the


Pentagon’s Joint Staff, and the White House. According to the New York Times, in early January 2020, the State Department’s epidemiologist wrote in a report to the director of national intelligence that the virus was likely to spread across the globe and become a pandemic, and NCMI independently arrived at the same conclusion. The New York Times also reported that in January 2020, U.S. intelligence agencies regularly provided information about the global danger of what is now known as SARS-CoV-2 to Executive Branch officials and members of Congress, including in daily briefing papers and digests from the Office of the Director of National Intelligence (“ODNI”) and the Central Intelligence Agency (“CIA”). According to the Washington Post, on January 3, 2020, a Chinese official informed Robert Redfield, Director for the Centers for Disease Control and Prevention (“CDC”), of the outbreak of a respiratory illness in the city of Wuhan. Redfield relayed the report to Alex Azar, Secretary for Health and Human Services (“HHS”), who reportedly relayed it to the White House.

Although the Executive Branch has publicly promised transparency, the White House reportedly ordered federal health officials to treat top-level coronavirus meetings as classified to keep meeting participation low and prevent leaks. Classification prevented relevant officials from attending the meetings because they did not possess the requisite security clearances.

On January 21, 2020, the CDC publicly confirmed the first U.S. novel coronavirus case, what is now known as SARS-CoV-2, in the state of Washington. In a memorandum dated January 29, 2020, Peter Navarro, President Trump’s trade advisor, warned the White House of “a full-blown pandemic, imperiling the lives of millions of Americans.” Although President Trump said he did not know about the memorandum at that time, press reports indicate that the President knew about it and was unhappy that Navarro had put his warning in writing. The same day, the White House announced the formation of “a coronavirus task force,” while noting that “[t]he risk of infection for Americans remains low.”

On January 30, 2020, the WHO declared the outbreak a “Public Health Emergency of International Concern.” Hours after that declaration, President Trump said during a speech on trade at a Michigan manufacturing plant, that the virus was “going to have a very good ending for us. So that I can assure you.”

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34 Id.
36 Id.
The WHO began supplying diagnostic test kits to various countries in January, but the U.S. did not use that test, choosing to develop its own.43 Contrary to an April 2018 agreement between the CDC and three of the biggest associations involved in lab testing, the Executive Branch reportedly prevented non-government laboratories from assisting in testing.44 The CDC released a flawed test in February 2020 that took weeks to correct.45

The Executive Branch has responded disparately to state governors’ requests for drugs, medical supplies and equipment, prompting questions about whether politics influenced their allocation across states.46

From January until early March 2020, President Trump continued to downplay the threat posed by the novel coronavirus.47 On January 22, President Trump said he was not worried about a pandemic, stating, “We have it totally under control…It’s one person coming in from China, and we have it under control. It’s going to be just fine.”48 On January 24, President Trump tweeted that the “United States greatly appreciates [China’s] efforts and transparency,” and “it will all work out well.”49 On February 7, 2020, he tweeted that “as the weather starts to warm…the virus hopefully becomes weaker, and then gone.”50 On February 10, he stated at a New Hampshire rally, “looks like, by April, you know, in theory, when it gets a little warmer, it miraculously goes away.”51 On February 24, he tweeted that “[t]he Coronavirus is very much under control in the USA.”52 On March 7, President Trump publicly stated that “[a]nybody that needs a test, gets a test. They’re there. They have the tests. And the tests are beautiful.”53

On March 13, 2020, however, President Trump declared a national state of emergency to combat the novel coronavirus.54 On March 16, 2020, in response to a question about his repeated claim of everything being “under control” he said, “If you’re talking about the virus, no, that’s not under control for any place in the world…I was talking about what we’re doing is under control, but I’m not talking about the virus.”55 On March 19, President Trump publicly suggested during his daily coronavirus briefing that the drugs Remdesivir, Choloroquine and Hydroxychloroquine were a possible “game changer” for treating COVID-19.56 despite insufficient evidence of their efficacy.57 A few days later, a man died and his wife was hospitalized

45 Id.
50 Donald J. Trump (https://twitter.com/realdonaldtrump/status/1225728756456808448).
52 Donald J. Trump (https://twitter.com/realdonaldtrump/status/1232088127748174339).
57 Charles Ornstein, What We Know — and Don’t Know — About Possible Coronavirus Treatments Promoted by Trump, Politico
after the couple ingested a form of Chloroquine.\textsuperscript{58}

On April 3, 2020, President Trump reversed previous guidance on masks while announcing that people in the U.S. should wear face coverings in public to slow the spread of what is now known as SARS-CoV-2.\textsuperscript{59} On April 14, contrary to his previous praise for China’s “efforts and transparency,”\textsuperscript{60} President Trump announced that he had instructed the Executive Branch to suspend funding to the WHO because it “willingly took China’s assurances to face value” and “pushed China’s misinformation.”\textsuperscript{61}

On April 16, 2020, after the White House released nonbinding guidelines recommending how and when states and localities should begin to reopen parts of the economy, President Trump stated that governors could reopen businesses by May 1 or earlier if they believed it prudent.\textsuperscript{62} On April 22, 2020, Dr. Rick Bright, former director of HHS Biomedical Advanced Research and Development Authority and deputy assistant secretary for preparedness and response, said that he was dismissed from his positions and transferred to the National Institutes of Health after he pressed for rigorous vetting of Hydroxychloroquine, the drug embraced by President Trump for treating the virus.\textsuperscript{63}

On April 23, 2020, President Trump suggested at a White House briefing that an “injection inside” the human body with a disinfectant could help combat COVID-19.\textsuperscript{64} The same day, the Environmental Protection Agency issued a press release warning against ingesting disinfectants or applying them on the human body.\textsuperscript{65} The day after the President suggested that a disinfectant injection could counter the virus, New York City’s poison control center reported receiving a higher-than-normal number of calls, many of them relating to exposure to disinfectants.\textsuperscript{66}

C. APPLICATION FOR EXPEDITED PROCESSING

The Justice Initiative requests expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E), as the information and records requested are urgently needed to inform the public about actual or alleged government activity, see 5 U.S.C. § 552(a)(6)(E)(v)(II), and as explained below, the Justice Initiative is an organization “primarily engaged in disseminating information…to inform the public concerning” that activity. 5 U.S.C. § 552(a)(6)(E)(v)(I-II). In addition, the Justice Initiative requests expedition on the grounds that failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life


\textsuperscript{60} Donald J. Trump (@realDonaldTrump), Twitter (Jan. 24, 2020, 4:18 PM), https://twitter.com/realdonaldtrump/status/122081811535493009.


\textsuperscript{63} A doctor says he was removed from his federal post after pressing for rigorous vetting of treatments embraced by Trump, N.Y. Times (Apr. 22, 2020), https://www.nytimes.com/2020/04/22/us/coronavirus-live-coverage.html#link-652aa9c3.


The Executive Branch’s efforts to counter SARS-CoV-2 are literally a matter of life and death for the American public. The virus is quickly spreading, killing thousands of people daily in the United States. As of April 27, 2020, there were nearly one million confirmed cases of COVID-19 and over 55,000 individuals had died from the virus in the United States.68 The eventual national death toll will be in the tens to hundreds of thousands, according to estimates by health experts and the government.69

The timing and content of the Executive Branch’s response to the novel coronavirus, including what it knew or should have known about the virus and when, what measures it has taken to stem the spread, and how it has engaged with Congress, state governors, WHO and other relevant bodies, is the subject of ongoing and intense public debate.70 Executive Branch officials have issued conflicting statements about the threat of the virus, the availability of testing, the duration of the risk of transmission, and the efficacy of masks and particular medications and treatment for the disease.71 As such, there is significant uncertainty about how to interpret government statements and actions relevant for determining how individuals in the U.S. should protect themselves from the coronavirus.72 Significantly, after President Trump publicly suggested that Chloroquine was a possible “game changer,” a man died and his wife was hospitalized after the couple ingested a form of the chemical.73 The day after the President suggested that a disinfectant injection could

70 See, Section B, supra; see also Yasmeen Abutaleb et al., The U.S. was beset by denial and dysfunction as the coronavirus raged, Wash. Post (Apr. 4, 2020), https://www.washingtonpost.com/national-security/2020/04/04/coronavirus-government-dysfunction;
75 Scott Neuman, Man Dies, Woman Hospitalized After Taking Form Of Chloroquine To Prevent COVID-19, NPR (Mar. 24, 2020),
counter the virus, New York City’s poison control center reported receiving a higher-than-normal number of calls, many of them relating to exposure to disinfectants.\(^\text{74}\)

In this context, failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of individuals in the United States. The information requested here is urgently needed for individuals in the United States to assess the government’s response to the virus and to make informed decisions about life and physical safety.

Furthermore, the Justice Initiative is “primarily engaged in disseminating information” within the meaning of the FOIA.\(^\text{75}\) Am. Civil Liberties Union v. Dep’t of Justice, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (finding that a non-profit, public interest group that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience” is “primarily engaged in disseminating information” within the meaning of the statute and regulations); cf. Elec. Privacy Info. Ctr. v. U.S. Dep’t of Def., 241 F. Supp. 2d 5, 11-12 (D.D.C. 2003) (finding that the Electronic Privacy Information Center was a representative of the news media based on its publication of seven books about national and international policies relating to privacy and civil rights); see also Nat’l Sec. Archive v. U.S. Dep’t of Def., 880 F.2d 1381, 1386 (D.C. Cir. 1989) (National Security Archive deemed a representative of the news media after publishing one book and indicating its intention to publish a set of documents on national and international politics and nuclear policy).

The Justice Initiative is an operating public interest law center dedicated to upholding human rights and the rule of law through litigation, advocacy, research, and technical assistance, with offices in New York, London, and Berlin. It is part of the Open Society Institute (“OSI”), a tax-exempt, non-partisan, not-for-profit organization, headquartered in New York City. OSI believes that solutions to national, regional, and global challenges require the free exchange of ideas and thought, and works to build vibrant and inclusive societies, grounded in respect for human rights and the rule of law, whose governments are accountable and open to the participation of all people. In support of their shared mission, OSI and the Justice Initiative share information with the public free of charge, through their websites, newsletters, and other publications to promote public understanding and robust debate. Disseminating information is among the Justice Initiative’s core activities. To accomplish its goals, the Justice Initiative maintains a website, www.justiceinitiative.org, through which it disseminates reports, briefing papers, fact sheets and other publications relating to its mission (https://www.justiceinitiative.org/publications). It also directly distributes hard copies of publications and disseminates information through quarterly email newsletters, blogs (www.opensocietyfoundations.org/voices), Twitter (www.twitter.com/OSFJustice) and Facebook (www.facebook.com/OpenSocietyFoundations).

We affirm that information and statements concerning the need for expedited processing are true and correct to the best of our knowledge and belief.

**D. APPLICATION FOR FEE WAIVER**

We request a waiver of search, review and duplication fees on the grounds that disclosure of the requested information “is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii).

As set forth in Section C above, the information and records at issue will contribute significantly to the public understanding of the timing and content of the government’s response to COVID-19. Moreover, the Justice Initiative, a non-profit entity, does not seek disclosure of these records for commercial gain and intends to

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disseminate the information disclosed from this request to the public at no cost.

In addition, for the same reasons that render it “primarily engaged in disseminating information,” see Section C supra, the Justice Initiative is also a “representative of the news media” within the meaning of the FOIA. As such, it is entitled to a fee waiver. See 5 U.S.C. § 552(a)(4)(A)(ii)(II); see also Judicial Watch, Inc. v. Rossotti, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (recognizing Congress’s intent that FOIA’s fee waiver provision is to be “liberally construed in favor of waivers for noncommercial requesters.”).

* * * * *

Pursuant to 5 U.S.C. § 552(a)(6)(E)(ii)(I) and 5 U.S.C. § 552(a)(6)(A)(i), respectively, we look forward to your reply to the request for expedited processing within ten calendar days, and to the request for disclosure within twenty days.

We request that responsive records be provided electronically in their native file format, if possible. See 5 U.S.C. § 552(a)(3)(B). Alternatively, we request that the records be provided electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency’s possession, and that the records be provided in separate, Bates-stamped files.

If this request is denied in whole or part, please justify all withholdings by reference to specific exemptions and statutes, as applicable. For each withholding please also explain why your agency “reasonably foresees that disclosure would harm an interest protected by an exemption” or why “disclosure is prohibited by law[.]” 5 U.S.C. § 552(a)(8)(A)(i). We seek the release of all segregable portions of otherwise exempt material, see 5 U.S.C. § 552(b). We also reserve the right to appeal any decision in relation to this Request.

Thank you for your prompt attention to this Request. Please send all records and correspondence by email to Amrit Singh at amrit.singh@opensocietyfoundations.org.

Sincerely,

Amrit Singh
Natasha Armriester
James A. Goldston
Open Society Justice Initiative
224 West 57th Street
New York, New York 10019
T: (212) 548 0600
Fax: (212) 548 4662
April 27, 2020

Defense Intelligence Agency
Charles Marineau, FOIA Public Liaison
ATTN: FAC2A1 (FOIA)
7400 Pentagon, Washington, DC 20301-7400
Phone: (301) 394-5587
Fax: (301) 394-5356
Email: foia@dodiis.mil

Re: Freedom of Information Act Request
Expedited Processing and Fee Waiver Requested

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III. Executive Branch SARS-CoV-2 and COVID-19 Communications with Congress, State Governors, and the WHO

27. Records including and/or discussing communications (before March 1, 2020) between any member of the Executive Branch and Congress regarding what is now known as SARS-CoV-2 and/or COVID-19, including but not limited to briefings to Congress, members of Congress, Congressional Committees or Subcommittees, and/or Congressional staff about what is now known as SARS-CoV-2 and/or COVID-19.\(^{25}\)

28. Records including and/or discussing communications between the White House and a state governor or his/her office about the timing and duration of social distancing measures and federal assistance to states for what is now known as SARS-CoV-2 and/or COVID-19, including but not limited to any direct financial assistance and assistance on medical supplies and equipment (including but not limited to drugs, ventilators, and vaccines), personal protective equipment (PPE), masks and testing for what is now known as SARS-CoV-2 and/or COVID-19.

29. Records including and/or discussing communications between the Executive Branch and the World Health Organization (“WHO”) about what is now known as SARS-CoV-2 and/or COVID-19.\(^{26}\)

B. BACKGROUND

The earliest known case of COVID-19 (the disease caused by what is now known as SARS-CoV-2) reportedly can be traced back to November 17, 2019, in Hubei province, China.\(^{27}\) By December 31, 2019, health officials in Wuhan posted a notice that they were investigating an outbreak of pneumonia in the city, and the World Health Organization (“WHO”) acknowledged that on that date it “was informed of a cluster of cases of pneumonia of unknown cause.”\(^{28}\) As of January 3, 2020, Chinese authorities reported a total of 44 patients with pneumonia of unknown etiology to the WHO.\(^{29}\)

Media reports provide varying accounts of when the U.S. Executive Branch first received notice of what is now known as SARS-CoV-2. ABC News reported, for example, that a November intelligence report by the military’s National Center for Medical Intelligence (“NCMI”) detailed concerns about what is now known as SARS-CoV-2, and the report “was briefed multiple times” to the Defense Intelligence Agency (“DIA”), the

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Pentagon’s Joint Staff, and the White House. According to the New York Times, in early January 2020, the State Department’s epidemiologist wrote in a report to the director of national intelligence that the virus was likely to spread across the globe and become a pandemic, and NCMI independently arrived at the same conclusion. The New York Times also reported that in January 2020, U.S. intelligence agencies regularly provided information about the global danger of what is now known as SARS-CoV-2 to Executive Branch officials and members of Congress, including in daily briefing papers and digests from the Office of the Director of National Intelligence (“ODNI”) and the Central Intelligence Agency (“CIA”). According to the Washington Post, on January 3, 2020, a Chinese official informed Robert Redfield, Director for the Centers for Disease Control and Prevention (“CDC”), of the outbreak of a respiratory illness in the city of Wuhan. Redfield relayed the report to Alex Azar, Secretary for Health and Human Services (“HHS”), who reportedly relayed it to the White House.

Although the Executive Branch has publicly promised transparency, the White House reportedly ordered federal health officials to treat top-level coronavirus meetings as classified to keep meeting participation low and prevent leaks. Classification prevented relevant officials from attending the meetings because they did not possess the requisite security clearances.

On January 21, 2020, the CDC publicly confirmed the first U.S. novel coronavirus case, what is now known as SARS-CoV-2, in the state of Washington. In a memorandum dated January 29, 2020, Peter Navarro, President Trump’s trade advisor, warned the White House of “a full-blown pandemic, imperiling the lives of millions of Americans.” Although President Trump said he did not know about the memorandum at that time, press reports indicate that the President knew about it and was unhappy that Navarro had put his warning in writing. The same day, the White House announced the formation of “a coronavirus task force,” while noting that “[t]he risk of infection for Americans remains low.

On January 30, 2020, the WHO declared the outbreak a “Public Health Emergency of International Concern.” Hours after that declaration, President Trump said during a speech on trade at a Michigan manufacturing plant, that the virus was “going to have a very good ending for us. So that I can assure you.”

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34 Id.
36 Id.
The WHO began supplying diagnostic test kits to various countries in January, but the U.S. did not use that test, choosing to develop its own.\(^43\) Contrary to an April 2018 agreement between the CDC and three of the biggest associations involved in lab testing, the Executive Branch reportedly prevented non-government laboratories from assisting in testing.\(^44\) The CDC released a flawed test in February 2020 that took weeks to correct.\(^45\)

The Executive Branch has responded disparately to state governors’ requests for drugs, medical supplies and equipment, prompting questions about whether politics influenced their allocation across states.\(^46\)

From January until early March 2020, President Trump continued to downplay the threat posed by the novel coronavirus.\(^47\) On January 22, President Trump said he was not worried about a pandemic, stating, “We have it totally under control...It’s one person coming in from China, and we have it under control. It’s going to be just fine.”\(^48\) On January 24, President Trump tweeted that the “United States greatly appreciates [China’s] efforts and transparency,” and “it will all work out well.”\(^49\) On February 7, 2020, he tweeted that “as the weather starts to warm...the virus hopefully becomes weaker, and then gone.”\(^50\) On February 10, he stated at a New Hampshire rally, “looks like, by April, you know, in theory, when it gets a little warmer, it miraculously goes away.”\(^51\) On February 24, he tweeted that “[t]he Coronavirus is very much under control in the USA.”\(^52\) On March 7, President Trump publicly stated that “[a]nybody that needs a test, gets a test. They’re there. They have the tests. And the tests are beautiful.”\(^53\)

On March 13, 2020, however, President Trump declared a national state of emergency to combat the novel coronavirus.\(^54\) On March 16, 2020, in response to a question about his repeated claim of everything being “under control” he said, “If you’re talking about the virus, no, that’s not under control for any place in the world...I was talking about what we’re doing is under control, but I’m not talking about the virus.”\(^55\) On March 19, President Trump publicly suggested during his daily coronavirus briefing that the drugs Remdesivir, Choloroquine and Hydroxychloroquine were a possible “game changer” for treating COVID-19,\(^56\) despite insufficient evidence of their efficacy.\(^57\) A few days later, a man died and his wife was hospitalized

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\(^{45}\) Id.


\(^{52}\) Donald J. Trump (@realDonaldTrump), Twitter (Feb. 24, 2020, 4:42 PM), https://twitter.com/realdonaldtrump/status/1232058127740174339.


\(^{57}\) Charles Ornstein, What We Know — and Don’t Know — About Possible Coronavirus Treatments Promoted by Trump, Politico
after the couple ingested a form of Chloroquine.  

On April 3, 2020, President Trump reversed previous guidance on masks while announcing that people in the U.S. should wear face coverings in public to slow the spread of what is now known as SARS-CoV-2. On April 14, contrary to his previous praise for China’s “efforts and transparency,” President Trump announced that he had instructed the Executive Branch to suspend funding to the WHO because it “willingly took China’s assurances to face value” and “pushed China’s misinformation.”

On April 16, 2020, after the White House released nonbinding guidelines recommending how and when states and localities should begin to reopen parts of the economy, President Trump stated that governors could reopen businesses by May 1 or earlier if they believed it prudent. On April 22, 2020, Dr. Rick Bright, former director of HHS Biomedical Advanced Research and Development Authority and deputy assistant secretary for preparedness and response, said that he was dismissed from his positions and transferred to the National Institutes of Health after he pressed for rigorous vetting of Hydroxychloroquine, the drug embraced by President Trump for treating the virus.

On April 23, 2020, President Trump suggested at a White House briefing that an “injection inside” the human body with a disinfectant could help combat COVID-19. The same day, the Environmental Protection Agency issued a press release warning against ingesting disinfectants or applying them on the human body. The day after the President suggested that a disinfectant injection could counter the virus, New York City’s poison control center reported receiving a higher-than-normal number of calls, many of them relating to exposure to disinfectants.

C. APPLICATION FOR EXPEDITED PROCESSING


The Executive Branch’s efforts to counter SARS-CoV-2 are literally a matter of life and death for the American public. The virus is quickly spreading, killing thousands of people daily in the United States. As of April 27, 2020, there were nearly one million confirmed cases of COVID-19 and over 55,000 individuals had died from the virus in the United States. The eventual national death toll will be in the tens to hundreds of thousands, according to estimates by health experts and the government.

The timing and content of the Executive Branch’s response to the novel coronavirus, including what it knew or should have known about the virus and when, what measures it has taken to stem the spread, and how it has engaged with Congress, state governors, WHO and other relevant bodies, is the subject of ongoing and intense public debate. Executive Branch officials have issued conflicting statements about the threat of the virus, the availability of testing, the duration of the risk of transmission, and the efficacy of masks and particular medications and treatment for the disease. As such, there is significant uncertainty about how to interpret government statements and actions relevant for determining how individuals in the U.S. should protect themselves from the coronavirus. Significantly, after President Trump publicly suggested that Chloroquine was a possible “game changer,” a man died and his wife was hospitalized after the couple ingested a form of the chemical. The day after the President suggested that a disinfectant injection could...
counter the virus, New York City’s poison control center reported receiving a higher-than-normal number of calls, many of them relating to exposure to disinfectants.74

In this context, failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of individuals in the United States. The information requested here is urgently needed for individuals in the United States to assess the government’s response to the virus and to make informed decisions about life and physical safety.

Furthermore, the Justice Initiative is “primarily engaged in disseminating information” within the meaning of the FOIA.75 Am. Civil Liberties Union v. Dep’t of Justice, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (finding that a non-profit, public interest group that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience” is “primarily engaged in disseminating information” within the meaning of the statute and regulations); cf. Elec. Privacy Info. Ctr. v. U.S. Dep’t of Def., 241 F. Supp. 2d 5, 11-12 (D.D.C. 2003) (finding that the Electronic Privacy Information Center was a representative of the news media based on its publication of seven books about national and international policies relating to privacy and civil rights); see also Nat’l Sec. Archive v. U.S. Dep’t of Def., 880 F.2d 1381, 1386 (D.C. Cir. 1989) (National Security Archive deemed a representative of the news media after publishing one book and indicating its intention to publish a set of documents on national and international politics and nuclear policy).

The Justice Initiative is an operating public interest law center dedicated to upholding human rights and the rule of law through litigation, advocacy, research, and technical assistance, with offices in New York, London, and Berlin. It is part of the Open Society Institute ("OSI"), a tax-exempt, non-partisan, not-for-profit organization, headquartered in New York City. OSI believes that solutions to national, regional, and global challenges require the free exchange of ideas and thought, and works to build vibrant and inclusive societies, grounded in respect for human rights and the rule of law, whose governments are accountable and open to the participation of all people. In support of their shared mission, OSI and the Justice Initiative share information with the public free of charge, through their websites, newsletters, and other publications to promote public understanding and robust debate. Disseminating information is among the Justice Initiative’s core activities. To accomplish its goals, the Justice Initiative maintains a website, www.justiceinitiative.org, through which it disseminates reports, briefing papers, fact sheets and other publications relating to its mission (https://www.justiceinitiative.org/publications). It also directly distributes hard copies of publications and disseminates information through quarterly email newsletters, blogs (www.opensocietyfoundations.org/voices), Twitter (www.twitter.com/OSFJustice) and Facebook (www.facebook.com/OpenSocietyFoundations).

We affirm that information and statements concerning the need for expedited processing are true and correct to the best of our knowledge and belief.

D. APPLICATION FOR FEE WAIVER

We request a waiver of search, review and duplication fees on the grounds that disclosure of the requested information “is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii).

As set forth in Section C above, the information and records at issue will contribute significantly to the public understanding of the timing and content of the government’s response to COVID-19. Moreover, the Justice Initiative, a non-profit entity, does not seek disclosure of these records for commercial gain and intends to


disseminate the information disclosed from this request to the public at no cost.

In addition, for the same reasons that render it “primarily engaged in disseminating information,” see Section C supra, the Justice Initiative is also a “representative of the news media” within the meaning of the FOIA. As such, it is entitled to a fee waiver. See 5 U.S.C. § 552(a)(4)(A)(ii)(II); see also Judicial Watch, Inc. v. Rossotti, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (recognizing Congress’s intent that FOIA’s fee waiver provision is to be “liberally construed in favor of waivers for noncommercial requesters.”).

* * * * *

Pursuant to 5 U.S.C. § 552(a)(6)(E)(ii)(I) and 5 U.S.C. § 552(a)(6)(A)(i), respectively, we look forward to your reply to the request for expedited processing within ten calendar days, and to the request for disclosure within twenty days.

We request that responsive records be provided electronically in their native file format, if possible. See 5 U.S.C. § 552(a)(3)(B). Alternatively, we request that the records be provided electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency’s possession, and that the records be provided in separate, Bates-stamped files.

If this request is denied in whole or part, please justify all withholdings by reference to specific exemptions and statutes, as applicable. For each withholding please also explain why your agency “reasonably foresees that disclosure would harm an interest protected by an exemption” or why “disclosure is prohibited by law[,]” 5 U.S.C. § 552(a)(8)(A)(i). We seek the release of all segregable portions of otherwise exempt material, see 5 U.S.C. § 552(b). We also reserve the right to appeal any decision in relation to this Request.

Thank you for your prompt attention to this Request. Please send all records and correspondence by email to Amrit Singh at amrit.singh@opensocietyfoundations.org.

Sincerely,

Amrit Singh
Natasha Armpriester
James A. Goldston
Open Society Justice Initiative
224 West 57th Street
New York, New York 10019
T: (212) 548 0600
Fax: (212) 548 4662
Via email

U.S. Indo-Pacific Command
Julio Perez, Command FOIA Officer
ATTN: J06 FOIA
Box 64022, Camp Smith, HI 9686-4022
Phone: (808) 477-0995
Fax: (808) 477-6685
Email: pacom.foia.fct@pacom.mil

Re: Freedom of Information Act Request
Expedited Processing and Fee Waiver Requested

To whom it may concern:

This letter constitutes a request (“Request”) pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 submitted on behalf of the Open Society Justice Initiative (“Justice Initiative”), an operational program of the Open Society Institute (“OSI”), a New York State charitable trust and nonprofit organization. We request records concerning the timing and substance of the Executive Branch’s response to the novel coronavirus, now known as severe acute respiratory syndrome coronavirus 2 or “SARS-CoV-2,” the virus that causes the disease known as coronavirus disease 2019 or “COVID-19.”

We respectfully ask that requests contained herein be forwarded to any other component agency as appropriate.

Expedited processing is requested pursuant to 5 U.S.C. § 552(a)(6)(E), as is a fee waiver, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii).

A. RECORDS REQUESTED

The Justice Initiative requests disclosure of the following records:

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2 For the purpose of this request, the term “records” includes, but is not limited to, any and all agendas, agreements; analyses; calendars; correspondence; data; databases; directives; documents; e-mails and e-mail attachments, including sent through personal email accounts (e.g., Gmail); reports; rules; schedules; studies; tables of contents and contents of binders; talking points; technical specifications; training materials; examinations; faxes; files; guidance; guidelines; evaluations; instructions; letters; manifests; manuals; memoranda; notes; orders; prepared documentation for meetings, calls, teleconferences, or other discussions responsive to our request; policies; procedures; protocols; text messages and messages sent or received through other messaging applications (e.g., WhatsApp, iMessage, Signal); voicemails; and any other materials. In the event that such records once existed but have now been destroyed, please disclose any records that are integrally related to, summarize, or are interchangeable with said records. Press clippings and news articles that are unaccompanied by any commentary need not be produced.
I. Notice of SARS-CoV-2 and COVID-19

1. Records indicating when the Executive Branch was first informed of what is now known as SARS-CoV-2 and/or COVID-19.  
2. Records indicating the Executive Branch’s response when it was first informed of what is now known as SARS-CoV-2 and/or COVID-19.  
3. Records indicating when President Donald Trump was first informed of what is now known as SARS-CoV-2 and/or COVID-19.  
4. Records indicating President Trump’s response when he was first informed of what is now known as SARS-CoV-2 and/or COVID-19.  
5. Any and all records created before March 1, 2020 concerning what is now known as SARS-CoV-2 and/or COVID-19.  
6. Records including and/or discussing communications (before March 1, 2020) to and from the National Center for Medical Intelligence (“NCMI”) about what is now known as SARS-CoV-2 and/or COVID-19.  
7. Records including and/or discussing January 2020 communications to and from a State Department epidemiologist about what is now known as SARS-CoV-2 and/or COVID-19.  
8. Records including and/or discussing January 2020 communications between Robert Redfield, Director, Centers for Disease Control and Prevention, and Chinese officials about what is now known as SARS-CoV-2 and/or COVID-19.  
9. Records including and/or discussing communications (from January 1, 2020 to February 29, 2020) between Alex Azar, Secretary, Health and Human Services, and President Donald Trump about what is now known as SARS-CoV-2 and/or COVID-19.  
10. Records including and/or discussing communications (from January 1, 2020 to February 29, 2020) to and from Dr. Carter Mecher, senior medical advisor, Department of Veterans Affairs, about what is now known as SARS-CoV-2 and/or COVID-19.  
11. Records including and/or discussing communications (from January 1, 2020 to March 31, 2020) to and from Robert Kadlec, Assistant Secretary for Preparedness and Response, about asymptomatic cases spreading what is now known as SARS-CoV-2 and/or COVID-19.  
12. Records discussing communications (from January 1, 2020 to February 29, 2020) from Peter Navarro, President Trump’s trade advisor, about what is now known as SARS-CoV-2 and/or COVID-19.  

II. The Executive Branch’s Efforts to Counter SARS-CoV-2 and COVID-19

13. Records including and/or discussing instructions to classify meetings and/or records relating to what is now known as SARS-CoV-2 and/or COVID-19.  
14. Communications between your agency and the White House regarding what is now known as SARS-CoV-2 and/or COVID-19.

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7 Id.  
8 Id.  
CoV-2 and/or COVID-19.

III. Executive Branch SARS-CoV-2 and COVID-19 Communications with Congress, State Governors, and the WHO

15. Records including and/or discussing communications (before March 1, 2020) between any member of the Executive Branch and Congress regarding what is now known as SARS-CoV-2 and/or COVID-19, including but not limited to briefings to Congress, members of Congress, Congressional Committees or Subcommittees, and/or Congressional staff about what is now known as SARS-CoV-2 and/or COVID-19.11

16. Records including and/or discussing communications between the Executive Branch and the World Health Organization (“WHO”) about what is now known as SARS-CoV-2 and/or COVID-19.12

B. BACKGROUND

The earliest known case of COVID-19 (the disease caused by what is now known as SARS-CoV-2) reportedly can be traced back to November 17, 2019, in Hubei province, China.13 By December 31, 2019, health officials in Wuhan posted a notice that they were investigating an outbreak of pneumonia in the city, and the World Health Organization (“WHO”) acknowledged that on that date it “was informed of a cluster of cases of pneumonia of unknown cause.”14 As of January 3, 2020, Chinese authorities reported a total of 44 patients with pneumonia of unknown etiology to the WHO.15

Media reports provide varying accounts of when the U.S. Executive Branch first received notice of what is now known as SARS-CoV-2. ABC News reported, for example, that a November intelligence report by the military’s National Center for Medical Intelligence (“NCMI”) detailed concerns about what is now known as SARS-CoV-2, and the report “was briefed multiple times” to the Defense Intelligence Agency (“DIA”), the Pentagon’s Joint Staff, and the White House.16 According to the New York Times, in early January 2020, the State Department’s epidemiologist wrote in a report to the director of national intelligence that the virus was likely to spread across the globe and become a pandemic, and NCMI independently arrived at the same conclusion.17 The New York Times also reported that in January 2020, U.S. intelligence agencies regularly provided information about the global danger of what is now known as SARS-CoV-2 to Executive Branch officials and members of Congress, including in daily briefing papers and digests from the Office of the Director of National Intelligence (“ODNI”) and the Central Intelligence Agency (“CIA”).18 According to the Washington Post, on January 3, 2020, a Chinese official informed Robert Redfield, Director for the Centers

for Disease Control and Prevention ("CDC"), of the outbreak of a respiratory illness in the city of Wuhan.\textsuperscript{19} Redfield relayed the report to Alex Azar, Secretary for Health and Human Services ("HHS"), who reportedly relayed it to the White House.\textsuperscript{20}

Although the Executive Branch has publicly promised transparency, the White House reportedly ordered federal health officials to treat top-level coronavirus meetings as classified to keep meeting participation low and prevent leaks.\textsuperscript{21} Classification prevented relevant officials from attending the meetings because they did not possess the requisite security clearances.\textsuperscript{22}

On January 21, 2020, the CDC publicly confirmed the first U.S. novel coronavirus case, what is now known as SARS-CoV-2, in the state of Washington.\textsuperscript{23} In a memorandum dated January 29, 2020, Peter Navarro, President Trump’s trade advisor, warned the White House of “a full-blown pandemic, imperiling the lives of millions of Americans.”\textsuperscript{24} Although President Trump said he did not know about the memorandum at that time, press reports indicate that the President knew about it and was unhappy that Navarro had put his warning in writing.\textsuperscript{25} The same day, the White House announced the formation of “a coronavirus task force,” while noting that “[t]he risk of infection for Americans remains low.”\textsuperscript{26}

On January 30, 2020, the WHO declared the outbreak a “Public Health Emergency of International Concern.”\textsuperscript{27} Hours after that declaration, President Trump said during a speech on trade at a Michigan manufacturing plant, that the virus was “going to have a very good ending for us. So that I can assure you.”\textsuperscript{28}

The WHO began supplying diagnostic test kits to various countries in January, but the U.S. did not use that test, choosing to develop its own.\textsuperscript{29} Contrary to an April 2018 agreement between the CDC and three of the biggest associations involved in lab testing, the Executive Branch reportedly prevented non-government laboratories from assisting in testing.\textsuperscript{30} The CDC released a flawed test in February 2020 that took weeks to correct.\textsuperscript{31}

The Executive Branch has responded disparately to state governors’ requests for drugs, medical supplies and equipment, prompting questions about whether politics influenced their allocation across states.\textsuperscript{32}


\textsuperscript{20} Id.


\textsuperscript{22} Id.


\textsuperscript{28} Caitlin Oprysko, Trump: Coronavirus will have ‘a very good ending for us,’ Politico (Jan. 30, 2020), https://www.politico.com/news/2020/01/30/trump-close-cooperation-china-coronavirus-109701.


\textsuperscript{31} Id.

From January until early March 2020, President Trump continued to downplay the threat posed by the novel coronavirus. On January 22, President Trump said he was not worried about a pandemic, stating, “We have it totally under control… It’s one person coming in from China, and we have it under control. It’s going to be just fine.” On January 24, President Trump tweeted that the “United States greatly appreciates [China’s] efforts and transparency,” and “it will all work out well.” On February 7, 2020, he tweeted that “as the weather starts to warm… the virus hopefully becomes weaker, and then gone.” On February 10, he stated at a New Hampshire rally, “looks like, by April, you know, in theory, when it gets a little warmer, it miraculously goes away.” On February 24, he tweeted that “[t]he Coronavirus is very much under control in the USA.”

On March 7, President Trump publicly stated that “[a]nybody that needs a test, gets a test. They’re there. They have the tests. And the tests are beautiful.”

On March 13, 2020, however, President Trump declared a national state of emergency to combat the novel coronavirus. On March 16, 2020, in response to a question about his repeated claim of everything being “under control” he said, “If you’re talking about the virus, no, that’s not under control for any place in the world…I was talking about what we’re doing is under control, but I’m not talking about the virus.” On March 19, President Trump publicly suggested during his daily coronavirus briefing that the drugs Remdesivir, Chloroquine and Hydroxychloroquine were a possible “game changer” for treating COVID-19, despite insufficient evidence of their efficacy. A few days later, a man died and his wife was hospitalized after the couple ingested a form of Chloroquine.

On April 3, 2020, President Trump reversed previous guidance on masks while announcing that people in the U.S. should wear face coverings in public to slow the spread of what is now known as SARS-CoV-2. On April 14, contrary to his previous praise for China’s “efforts and transparency,” President Trump announced

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43 Donald J. Trump (@realDonaldTrump), Twitter (Jan. 24, 2020, 4:18 PM),
that he had instructed the Executive Branch to suspend funding to the WHO because it “willingly took China’s assurances to face value” and “pushed China’s misinformation.”

On April 16, 2020, after the White House released nonbinding guidelines recommending how and when states and localities should begin to reopen parts of the economy, President Trump stated that governors could reopen businesses by May 1 or earlier if they believed it prudent. On April 22, 2020, Dr. Rick Bright, former director of HHS Biomedical Advanced Research and Development Authority and deputy assistant secretary for preparedness and response, said that he was dismissed from his positions and transferred to the National Institutes of Health after he pressed for rigorous vetting of Hydroxychloroquine, the drug embraced by President Trump for treating the virus.

On April 23, 2020, President Trump suggested at a White House briefing that an “injection inside” the human body with a disinfectant could help combat COVID-19. The same day, the Environmental Protection Agency issued a press release warning against ingesting disinfectants or applying them on the human body. The day after the President suggested that a disinfectant injection could counter the virus, New York City’s poison control center reported receiving a higher-than-normal number of calls, many of them relating to exposure to disinfectants.

C. APPLICATION FOR EXPEDITED PROCESSING

The Justice Initiative requests expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E), as the information and records requested are urgently needed to inform the public about actual or alleged government activity, see 5 U.S.C. § 552(a)(6)(E)(v)(II), and as explained below, the Justice Initiative is an organization “primarily engaged in disseminating information...to inform the public concerning” that activity. 5 U.S.C. § 552(a)(6)(E)(v)(I). In addition, the Justice Initiative requests expedition on the grounds that failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual. See 5 U.S.C. § 552(a)(6)(E)(v)(I).

The Executive Branch’s efforts to counter SARS-CoV-2 are literally a matter of life and death for the American public. The virus is quickly spreading, killing thousands of people daily in the United States. As of April 27, 2020, there were nearly one million confirmed cases of COVID-19 and over 55,000 individuals had died from the virus in the United States. The eventual national death toll will be in the tens to hundreds of thousands, according to estimates by health experts and the government.

The timing and content of the Executive Branch’s response to the novel coronavirus, including what it knew or should have known about the virus and when, what measures it has taken to stem the spread, and how it is

https://twitter.com/realdonaldtrump/status/1220818115354923009.

54 See e.g., COVID-19 Dashboard by the Center for Systems Science and Engineering (CSSE) at John Hopkins University, U.S. Map, https://coronavirus.jhu.edu/map.html (last accessed Apr. 27, 2020 at 12:20 pm (EST)).
has engaged with Congress, state governors, WHO and other relevant bodies, is the subject of ongoing and intense public debate.\textsuperscript{56} Executive Branch officials have issued conflicting statements about the threat of the virus, the availability of testing, the duration of the risk of transmission, and the efficacy of masks and particular medications and treatment for the disease.\textsuperscript{57} As such, there is significant uncertainty about how to interpret government statements and actions relevant for determining how individuals in the U.S. should protect themselves from the coronavirus.\textsuperscript{58} Significantly, after President Trump publicly suggested that Chloroquine was a possible “game changer,” a man died and his wife was hospitalized after the couple ingested a form of the chemical.\textsuperscript{59} The day after the President suggested that a disinfectant injection could counter the virus, New York City’s poison control center reported receiving a higher-than-normal number of calls, many of them relating to exposure to disinfectants.\textsuperscript{60}

In this context, failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of individuals in the United States. The information requested here is urgently needed for individuals in the United States to assess the government’s response to the virus and to make informed decisions about life and physical safety.

Furthermore, the Justice Initiative is “primarily engaged in disseminating information” within the meaning of the FOIA.\textsuperscript{61} Am. Civil Liberty Union v. Dep’t of Justice, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (finding


that a non-profit, public interest group that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience” is “primarily engaged in disseminating information” within the meaning of the statute and regulations; cf. Elec. Privacy Info. Ctr. v. U.S. Dep’t of Def., 241 F. Supp. 2d 5, 11-12 (D.D.C. 2003) (finding that the Electronic Privacy Information Center was a representative of the news media based on its publication of seven books about national and international policies relating to privacy and civil rights); see also Nat’l Sec. Archive v. U.S. Dep’t of Def., 880 F.2d 1381, 1386 (D.C. Cir. 1989) (National Security Archive deemed a representative of the news media after publishing one book and indicating its intention to publish a set of documents on national and international politics and nuclear policy).

The Justice Initiative is an operating public interest law center dedicated to upholding human rights and the rule of law through litigation, advocacy, research, and technical assistance, with offices in New York, London, and Berlin. It is part of the Open Society Institute (“OSI”), a tax-exempt, non-partisan, not-for-profit organization, headquartered in New York City. OSI believes that solutions to national, regional, and global challenges require the free exchange of ideas and thought, and works to build vibrant and inclusive societies, grounded in respect for human rights and the rule of law, whose governments are accountable and open to the participation of all people. In support of their shared mission, OSI and the Justice Initiative share information with the public free of charge, through their websites, newsletters, and other publications to promote public understanding and robust debate. Disseminating information is among the Justice Initiative’s core activities. To accomplish its goals, the Justice Initiative maintains a website, www.justiceinitiative.org, through which it disseminates reports, briefing papers, fact sheets and other publications relating to its mission (https://www.justiceinitiative.org/publications). It also directly distributes hard copies of publications and disseminates information through quarterly email newsletters, blogs (www.opensocietyfoundations.org/voices), Twitter (www.twitter.com/OSFJustice) and Facebook (www.facebook.com/OpenSocietyFoundations).

We affirm that information and statements concerning the need for expedited processing are true and correct to the best of our knowledge and belief.

D. APPLICATION FOR FEE WAIVER

We request a waiver of search, review and duplication fees on the grounds that disclosure of the requested information “is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii).

As set forth in Section C above, the information and records at issue will contribute significantly to the public understanding of the timing and content of the government’s response to COVID-19. Moreover, the Justice Initiative, a non-profit entity, does not seek disclosure of these records for commercial gain and intends to disseminate the information disclosed from this request to the public at no cost.

In addition, for the same reasons that render it “primarily engaged in disseminating information,” see Section C supra, the Justice Initiative is also a “representative of the news media” within the meaning of the FOIA. As such, it is entitled to a fee waiver. See 5 U.S.C. § 552(a)(4)(A)(ii); see also Judicial Watch, Inc. v. Rossotti, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (recognizing Congress’s intent that FOIA’s fee waiver provision is to be “liberally construed in favor of waivers for noncommercial requesters.”).

* * * * *

Pursuant to 5 U.S.C. § 552(a)(6)(E)(ii)(I) and 5 U.S.C. § 552(a)(6)(A)(i), respectively, we look forward to your reply to the request for expedited processing within ten calendar days, and to the request for disclosure within twenty days.

We request that responsive records be provided electronically in their native file format, if possible. See 5 U.S.C. § 552(a)(3)(B). Alternatively, we request that the records be provided electronically in a text-
searchable, static-image format (PDF), in the best image quality in the agency’s possession, and that the records be provided in separate, Bates-stamped files.

If this request is denied in whole or part, please justify all withholdings by reference to specific exemptions and statutes, as applicable. For each withholding please also explain why your agency “reasonably foresees that disclosure would harm an interest protected by an exemption” or why “disclosure is prohibited by law[.]” 5 U.S.C. § 552(a)(8)(A)(i). We seek the release of all segregable portions of otherwise exempt material, see 5 U.S.C. § 552(b). We also reserve the right to appeal any decision in relation to this Request.

Thank you for your prompt attention to this Request. Please send all records and correspondence by email to Amrit Singh at amrit.singh@opensocietyfoundations.org.

Sincerely,

[Signature]

Amrit Singh
Natasha Arnpriester
James A. Goldston
Open Society Justice Initiative
224 West 57th Street
New York, New York 10019
Phone: (212) 548-0600
Fax: (212) 548-4662
Re: Freedom of Information Act Request  
Expedited Processing and Fee Waiver Requested

To whom it may concern:

This letter constitutes a request (“Request”) pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 submitted on behalf of the Open Society Justice Initiative (“Justice Initiative”), an operational program of the Open Society Institute (“OSI”), a New York State charitable trust and nonprofit organization. We request records concerning the timing and substance of the Executive Branch’s response to the novel coronavirus, now known as severe acute respiratory syndrome coronavirus 2 or “SARS-CoV-2,” the virus that causes the disease known as coronavirus disease 2019 or “COVID-19.”

1 We respectfully ask that requests contained herein be forwarded to any other component agency as appropriate.

Expedited processing is requested pursuant to 5 U.S.C. § 552(a)(6)(E), as is a fee waiver, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii).

A. RECORDS REQUESTED

The Justice Initiative requests disclosure of the following records:


2 For the purpose of this request, the term “records” includes, but is not limited to, any and all agendas, agreements; analyses; calendars; correspondence; data; databases; directives; documents; e-mails and e-mail attachments, including sent through personal email accounts (e.g., Gmail); reports; rules; schedules; studies; tables of contents and contents of binders; talking points; technical specifications; training materials; examinations; faxes; files; guidance; guidelines; evaluations; instructions; letters; manifests; manuals; memoranda; notes; orders; prepared documentation for meetings, calls, teleconferences, or other discussions responsive to our request; policies; procedures; protocols; text messages and messages sent or received through other messaging applications (e.g., WhatsApp, iMessage, Signal); voicemails; and any other materials. In the event that such records once existed but have now been destroyed, please disclose any records that are integrally related to, summarize, or are interchangeable with said records. Press clippings and news articles that are unaccompanied by any commentary need not be produced.
I. Notice of SARS-CoV-2 and COVID-19

1. Records indicating when the Executive Branch was first informed of what is now known as SARS-CoV-2 and/or COVID-19.
2. Records indicating the Executive Branch’s response when it was first informed of what is now known as SARS-CoV-2 and/or COVID-19.
3. Records indicating when President Donald Trump was first informed of what is now known as SARS-CoV-2 and/or COVID-19.
4. Records indicating President Trump’s response when he was first informed of what is now known as SARS-CoV-2 and/or COVID-19.
5. Records including and/or discussing communications (before March 1, 2020) to and from the National Center for Medical Intelligence (“NCMI”) about what is now known as SARS-CoV-2 and/or COVID-19.3
6. Records including and/or discussing January 2020 communications to and from a State Department epidemiologist about what is now known as SARS-CoV-2 and/or COVID-19.4
7. Records including and/or discussing January 2020 communications between Robert Redfield, Director, Centers for Disease Control and Prevention, and Chinese officials about what is now known as SARS-CoV-2 and/or COVID-19.5
8. Records including and/or discussing communications (from January 1, 2020 to February 29, 2020) between Alex Azar, Secretary, Health and Human Services, and President Donald Trump about what is now known as SARS-CoV-2 and/or COVID-19.6
9. Records including and/or discussing communications (from January 1, 2020 to February 29, 2020) to and from Dr. Carter Mecher, senior medical advisor, Department of Veterans Affairs, about what is now known as SARS-CoV-2 and/or COVID-19.7
10. Records including and/or discussing communications (from January 1, 2020 to March 31, 2020) to and from Robert Kadlec, Assistant Secretary for Preparedness and Response, about asymptomatic cases spreading what is now known as SARS-CoV-2 and/or COVID-19.8
11. Records discussing communications (from January 1, 2020 to February 29, 2020) from Peter Navarro, President Trump’s trade advisor, about what is now known as SARS-CoV-2 and/or COVID-19.9

II. The Executive Branch’s Efforts to Counter SARS-CoV-2 and COVID-19

12. Records concerning extraordinary presidential authority, including but not limited to “presidential emergency actions” relating to what is now known as SARS-CoV-2 and/or COVID-19.10
13. Records indicating dates and agendas for meetings and decisions of the official White House coronavirus task force during January and February 2020.11

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7 Id.
8 Id.
14. Records including and/or discussing “Four steps to mitigation,” a February/March 2020 plan for addressing what is now known as SARS-CoV-2 and/or COVID-19.

15. Records including and/or discussing a February 2020 document titled “U.S. Government Response to the 2019 Novel Coronavirus.”

16. Records discussing Remdesivir, Chloroquine, Hydroxychloroquine (“Plaquenil”), Azithromycin (“Zithromax”) and/or other drugs or substances, such as disinfectants, for treating what is now known as SARS-CoV-2 and/or COVID-19.

17. Records including and/or discussing instructions to classify meetings and/or records relating to what is now known as SARS-CoV-2 and/or COVID-19.

18. Communications between your agency and the White House regarding what is now known as SARS-CoV-2 and/or COVID-19.

19. Communications between the Executive Branch and non-government entities (including but not limited to private-sector companies, academic institutions and/or individuals) capable of developing tests, or assisting in testing, for what is now known as SARS-CoV-2 and/or COVID-19.

III. Executive Branch SARS-CoV-2 and COVID-19 Communications with Congress, State Governors, and the WHO

20. Records including and/or discussing communications (before March 1, 2020) between any member of the Executive Branch and Congress regarding what is now known as SARS-CoV-2 and/or COVID-19, including but not limited to briefings to Congress, members of Congress, Congressional Committees or Subcommittees, and/or Congressional staff about what is now known as SARS-CoV-2 and/or COVID-19.

21. Records including and/or discussing communications between the Executive Branch and the World Health Organization (“WHO”) about what is now known as SARS-CoV-2 and/or COVID-19.

B. BACKGROUND

The earliest known case of COVID-19 (the disease caused by what is now known as SARS-CoV-2) reportedly can be traced back to November 17, 2019, in Hubei province, China. By December 31, 2019, health officials...
in Wuhan posted a notice that they were investigating an outbreak of pneumonia in the city, and the World Health Organization ("WHO") acknowledged that on that date it "was informed of a cluster of cases of pneumonia of unknown cause." As of January 3, 2020, Chinese authorities reported a total of 44 patients with pneumonia of unknown etiology to the WHO.20

Media reports provide varying accounts of when the U.S. Executive Branch first received notice of what is now known as SARS-CoV-2. ABC News reported, for example, that a November intelligence report by the military’s National Center for Medical Intelligence ("NCMI") detailed concerns about what is now known as SARS-CoV-2, and the report "was briefed multiple times" to the Defense Intelligence Agency ("DIA"), the Pentagon’s Joint Staff, and the White House.21 According to the New York Times, in early January 2020, the State Department’s epidemiologist wrote in a report to the director of national intelligence that the virus was likely to spread across the globe and become a pandemic, and NCMI independently arrived at the same conclusion.22 The New York Times also reported that in January 2020, U.S. intelligence agencies regularly provided information about the global danger of what is now known as SARS-CoV-2 to Executive Branch officials and members of Congress, including in daily briefing papers and digests from the Office of the Director of National Intelligence ("ODNI") and the Central Intelligence Agency ("CIA").23 According to the Washington Post, on January 3, 2020, a Chinese official informed Robert Redfield, Director for the Centers for Disease Control and Prevention ("CDC"), of the outbreak of a respiratory illness in the city of Wuhan.24 Redfield relayed the report to Alex Azar, Secretary for Health and Human Services ("HHS"), who reportedly relayed it to the White House.25

Although the Executive Branch has publicly promised transparency, the White House reportedly ordered federal health officials to treat top-level coronavirus meetings as classified to keep meeting participation low and prevent leaks.26 Classification prevented relevant officials from attending the meetings because they did not possess the requisite security clearances.27

On January 21, 2020, the CDC publicly confirmed the first U.S. novel coronavirus case, what is now known as SARS-CoV-2, in the state of Washington.28 In a memorandum dated January 29, 2020, Peter Navarro, President Trump’s trade advisor, warned the White House of “a full-blown pandemic, imperiling the lives of millions of Americans.”29 Although President Trump said he did not know about the memorandum at that time, press reports indicate that the President knew about it and was unhappy that Navarro had put his warning in writing.30 The same day, the White House announced the formation of “a coronavirus task force,” while

26 Id.
28 Id.
noting that “the risk of infection for Americans remains low.”

On January 30, 2020, the WHO declared the outbreak a “Public Health Emergency of International Concern.” Hours after that declaration, President Trump said during a speech on trade at a Michigan manufacturing plant, that the virus was “going to have a very good ending for us. So that I can assure you.”

The WHO began supplying diagnostic test kits to various countries in January, but the U.S. did not use that test, choosing to develop its own. Contrary to an April 2018 agreement between the CDC and three of the biggest associations involved in lab testing, the Executive Branch reportedly prevented non-government laboratories from assisting in testing. The CDC released a flawed test in February 2020 that took weeks to correct.

The Executive Branch has responded disparately to state governors’ requests for drugs, medical supplies and equipment, prompting questions about whether politics influenced their allocation across states.

From January until early March 2020, President Trump continued to downplay the threat posed by the novel coronavirus. On January 22, President Trump said he was not worried about a pandemic, stating, “We have it totally under control... It’s one person coming in from China, and we have it under control. It’s going to be just fine.” On January 24, President Trump tweeted that the “United States greatly appreciates [China’s] efforts and transparency,” and “it will all work out well.” On February 7, 2020, he tweeted that “as the weather starts to warm... the virus hopefully becomes weaker, and then gone.” On February 10, he stated at a New Hampshire rally, “looks like, by April, you know, in theory, when it gets a little warmer, it miraculously goes away.” On February 24, he tweeted that “[t]he Coronavirus is very much under control in the USA.”

On March 7, President Trump publicly stated that “[a]nybody that needs a test, gets a test. They’re there. They have the tests. And the tests are beautiful.”

On March 13, 2020, however, President Trump declared a national state of emergency to combat the novel

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37 Id.


coronavirus. On March 16, 2020, in response to a question about his repeated claim of everything being “under control” he said, “If you’re talking about the virus, no, that’s not under control for any place in the world…I was talking about what we’re doing is under control, but I’m not talking about the virus.” On March 19, President Trump publicly suggested during his daily coronavirus briefing that the drugs Remdesivir, Chloroquine and Hydroxychloroquine were a possible “game changer” for treating COVID-19, despite insufficient evidence of their efficacy. A few days later, a man died and his wife was hospitalized after the couple ingested a form of Chloroquine. On April 3, 2020, President Trump reversed previous guidance on masks while announcing that people in the U.S. should wear face coverings in public to slow the spread of what is now known as SARS-CoV-2. On April 14, contrary to his previous praise for China’s “efforts and transparency,” President Trump announced that he had instructed the Executive Branch to suspend funding to the WHO because it “willingly took China’s assurances to face value” and “pushed China’s misinformation.”

On April 16, 2020, after the White House released nonbinding guidelines recommending how and when states and localities should begin to reopen parts of the economy, President Trump stated that governors could reopen businesses by May 1 or earlier if they believed it prudent. On April 22, 2020, Dr. Rick Bright, former director of HHS Biomedical Advanced Research and Development Authority and deputy assistant secretary for preparedness and response, said that he was dismissed from his positions and transferred to the National Institutes of Health after he pressed for rigorous vetting of Hydroxychloroquine, the drug embraced by President Trump for treating the virus.

On April 23, 2020, President Trump suggested at a White House briefing that an “injection inside” the human body with a disinfectant could help combat COVID-19. The same day, the Environmental Protection Agency issued a press release warning against ingesting disinfectants or applying them on the human body. The day after the President suggested that a disinfectant injection could counter the virus, New York City’s public health department declared a public health emergency.

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poison control center reported receiving a higher-than-normal number of calls, many of them relating to exposure to disinfectants.58

C. APPLICATION FOR EXPEDITED PROCESSING

The Justice Initiative requests expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E), as the information and records requested are urgently needed to inform the public about actual or alleged government activity, see 5 U.S.C. § 552(a)(6)(E)(v)(II), and as explained below, the Justice Initiative is an organization “primarily engaged in disseminating information…to inform the public concerning” that activity. 5 U.S.C. § 552(a)(6)(E)(v)(I-II). In addition, the Justice Initiative requests expedition on the grounds that failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual. See 5 U.S.C. § 552(a)(6)(E)(v)(I).

The Executive Branch’s efforts to counter SARS-CoV-2 are literally a matter of life and death for the American public. The virus is quickly spreading, killing thousands of people daily in the United States. 59 As of April 27, 2020, there were nearly one million confirmed cases of COVID-19 and over 55,000 individuals had died from the virus in the United States. 60 The eventual national death toll will be in the tens to hundreds of thousands, according to estimates by health experts and the government.61

The timing and content of the Executive Branch’s response to the novel coronavirus, including what it knew or should have known about the virus and when, what measures it has taken to stem the spread, and how it is has engaged with Congress, state governors, WHO and other relevant bodies, is the subject of ongoing and intense public debate.62 Executive Branch officials have issued conflicting statements about the threat of the virus, the availability of testing, the duration of the risk of transmission, and the efficacy of masks and particular medications and treatment for the disease.63 As such, there is significant uncertainty about how to interpret government statements and actions relevant for determining how individuals in the U.S. should protect themselves from the coronavirus.64 Significantly, after President Trump publicly suggested that

60 See e.g. COVID-19 Dashboard by the Center for Systems Science and Engineering (CSSE) at John Hopkins University, U.S. Map, https://coronavirus.jhu.edu/map.html (last accessed Apr. 27, 2020 at 12:20 pm (EST)).
Chloroquine was a possible “game changer,” a man died and his wife was hospitalized after the couple ingested a form of the chemical. The day after the President suggested that a disinfectant injection could counter the virus, New York City’s poison control center reported receiving a higher-than-normal number of calls, many of them relating to exposure to disinfectants.66

In this context, failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of individuals in the United States. The information requested here is urgently needed for individuals in the United States to assess the government’s response to the virus and to make informed decisions about life and physical safety.

Furthermore, the Justice Initiative is “primarily engaged in disseminating information” within the meaning of the FOIA. Am. Civil Liberties Union v. Dep’t of Justice, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (finding that a non-profit, public interest group that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience” is “primarily engaged in disseminating information” within the meaning of the statute and regulations); cf. Elec. Privacy Info. Ctr. v. U.S. Dep’t of Def., 241 F. Supp. 2d 5, 11-12 (D.D.C. 2003) (finding that the Electronic Privacy Information Center was a representative of the news media based on its publication of seven books about national and international policies relating to privacy and civil rights); see also Nat’l Sec. Archive v. U.S. Dep’t of Def., 880 F.2d 1381, 1386 (D.C. Cir. 1989) (National Security Archive deemed a representative of the news media after publishing one book and indicating its intention to publish a set of documents on national and international politics and nuclear policy).

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Disseminating information is among the Justice Initiative’s core activities. To accomplish its goals, the Justice Initiative maintains a website (www.justiceinitiative.org/publications) and disseminates information through quarterly email newsletters, blogs (www.opensocietyfoundations.org/voices), Twitter (www.twitter.com/OSFJustice) and Facebook (www.facebook.com/OpenSocietyFoundations).


We affirm that information and statements concerning the need for expedited processing are true and correct to the best of our knowledge and belief.

D. APPLICATION FOR FEE WAIVER

We request a waiver of search, review and duplication fees on the grounds that disclosure of the requested information “is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii).

As set forth in Section C above, the information and records at issue will contribute significantly to the public understanding of the timing and content of the government’s response to COVID-19. Moreover, the Justice Initiative, a non-profit entity, does not seek disclosure of these records for commercial gain and intends to disseminate the information disclosed from this request to the public at no cost.

In addition, for the same reasons that render it “primarily engaged in disseminating information,” see Section C supra, the Justice Initiative is also a “representative of the news media” within the meaning of the FOIA. As such, it is entitled to a fee waiver. See 5 U.S.C. § 552(a)(4)(A)(ii)(II); see also Judicial Watch, Inc. v. Rossotti, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (recognizing Congress’s intent that FOIA’s fee waiver provision is to be “liberally construed in favor of waivers for noncommercial requesters.”).

* * * * *

Pursuant to 5 U.S.C. § 552(a)(6)(E)(ii)(I) and 5 U.S.C. § 552(a)(6)(A)(i), respectively, we look forward to your reply to the request for expedited processing within ten calendar days, and to the request for disclosure within twenty days.

We request that responsive records be provided electronically in their native file format, if possible. See 5 U.S.C. § 552(a)(3)(B). Alternatively, we request that the records be provided electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency’s possession, and that the records be provided in separate, Bates-stamped files.

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Thank you for your prompt attention to this Request. Please send all records and correspondence by email to Amrit Singh at amrit.singh@opensocietyfoundations.org.

Sincerely,

Amrit Singh
Natasha Arnpriester
James A. Goldston
Open Society Justice Initiative
224 West 57th Street
New York, New York 10019
T: (212) 548 0600
Fax: (212) 548 4662
April 28, 2020

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE
Patricia Gaviria
Director, Information Management Division
ATTN: FOIA/PA
Washington, D.C. 20511
Email: dni-foia@dni.gov

Re: Freedom of Information Act Request
Expedited Processing and Fee Waiver Requested

To whom it may concern:

This letter constitutes a request (“Request”) pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 submitted on behalf of the Open Society Justice Initiative (“Justice Initiative”), an operational program of the Open Society Institute (“OSI”), a New York State charitable trust and nonprofit organization. We request records concerning the timing and substance of the Executive Branch’s response to the novel coronavirus, now known as severe acute respiratory syndrome coronavirus 2 or “SARS-CoV-2,” the virus that causes the disease known as coronavirus disease 2019 or “COVID-19.”

We respectfully ask that requests contained herein be forwarded to any other component agency as appropriate.

Expedited processing is requested pursuant to 5 U.S.C. § 552(a)(6)(E), as is a fee waiver, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii).

A. RECORDS REQUESTED

The Justice Initiative requests disclosure of the following records:

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2 For the purpose of this request, the term “records” includes, but is not limited to, any and all agendas, agreements; analyses; calendars; correspondence; data; databases; directives; documents; e-mails and e-mail attachments, including sent through personal email accounts (e.g., Gmail); reports; rules; schedules; studies; tables of contents and contents of binders; talking points; technical specifications; training materials; examinations; faxes; files; guidance; guidelines; evaluations; instructions; letters; manifests; manuals; memoranda; notes; orders; prepared documentation for meetings, calls, teleconferences, or other discussions responsive to our request; policies; procedures; protocols; text messages and messages sent or received through other messaging applications (e.g., WhatsApp, iMessage, Signal); voicemails; and any other materials. In the event that such records once existed but have now been destroyed, please disclose any records that are integrally related to, summarize, or are interchangeable with said records. Press clippings and news articles that are unaccompanied by any commentary need not be produced.
I. Notice of SARS-CoV-2 and COVID-19

1. Records indicating when the Executive Branch was first informed of what is now known as SARS-CoV-2 and/or COVID-19.
2. Records indicating the Executive Branch’s response when it was first informed of what is now known as SARS-CoV-2 and/or COVID-19.
3. Records indicating when President Donald Trump was first informed of what is now known as SARS-CoV-2 and/or COVID-19.
4. Records indicating President Trump’s response when he was first informed of what is now known as SARS-CoV-2 and/or COVID-19.
5. Records created before March 1, 2020 that refer to what is now known as SARS-CoV-2 and/or COVID-19, including but not limited to “President’s Daily Brief(s)” or “executive update(s)” provided to the President and/or other executive officials.3
6. Records including and/or discussing communications (before March 1, 2020) to and from the National Center for Medical Intelligence (“NCMI”) about what is now known as SARS-CoV-2 and/or COVID-19.4
7. Records including and/or discussing January 2020 communications to and from a State Department epidemiologist about what is now known as SARS-CoV-2 and/or COVID-19.5
8. Records including and/or discussing January 2020 communications between Robert Redfield, Director, Centers for Disease Control and Prevention, and Chinese officials about what is now known as SARS-CoV-2 and/or COVID-19.6
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8 Id.
9 Id.
II. The Executive Branch’s Efforts to Counter SARS-CoV-2 and COVID-19

13. Records discussing immunity to what is now known as SARS-CoV-2 and/or COVID-19 in the U.S.\(^\text{11}\)
14. Records including and/or discussing instructions to classify meetings and/or records relating to what is now known as SARS-CoV-2 and/or COVID-19.\(^\text{12}\)
15. Communications between your agency and the White House regarding what is now known as SARS-CoV-2 and/or COVID-19.

III. Executive Branch SARS-CoV-2 and COVID-19 Communications with Congress, State Governors, and the WHO

16. Records including and/or discussing communications (before March 1, 2020) between any member of the Executive Branch and Congress regarding what is now known as SARS-CoV-2 and/or COVID-19, including but not limited to briefings to Congress, members of Congress, Congressional Committees or Subcommittees, and/or Congressional staff about what is now known as SARS-CoV-2 and/or COVID-19.\(^\text{13}\)
17. Records including and/or discussing communications between the Executive Branch and the World Health Organization (“WHO”) about what is now known as SARS-CoV-2 and/or COVID-19.\(^\text{14}\)

B. BACKGROUND

The earliest known case of COVID-19 (the disease caused by what is now known as SARS-CoV-2) reportedly can be traced back to November 17, 2019, in Hubei province, China.\(^\text{15}\) By December 31, 2019, health officials in Wuhan posted a notice that they were investigating an outbreak of pneumonia in the city, and the World Health Organization (“WHO”) acknowledged that on that date it “was informed of a cluster of cases of pneumonia of unknown cause.”\(^\text{16}\) As of January 3, 2020, Chinese authorities reported a total of 44 patients with pneumonia of unknown etiology to the WHO.\(^\text{17}\)

Media reports provide varying accounts of when the U.S. Executive Branch first received notice of what is now known as SARS-CoV-2. \(\text{ABC News}\) reported, for example, that a November intelligence report by the military’s National Center for Medical Intelligence (“NCMI”) detailed concerns about what is now known as SARS-CoV-2, and the report “was briefed multiple times” to the Defense Intelligence Agency (“DIA”), the Pentagon’s Joint Staff, and the White House.\(^\text{18}\) According to the \textit{New York Times}, in early January 2020, the State Department’s epidemiologist wrote in a report to the director of national intelligence that the virus was...


likely to spread across the globe and become a pandemic, and NCMI independently arrived at the same conclusion.\textsuperscript{19} The Washington Post reported that as early as January 2020, U.S. intelligence agencies regularly provided information about the global danger of what is now known as SARS-CoV-2 to Executive Branch officials and members of Congress, including in daily briefing papers and digests from the Office of the Director of National Intelligence (“ODNI”) and the Central Intelligence Agency (“CIA”).\textsuperscript{20} According to the Washington Post, on January 3, 2020, a Chinese official informed Robert Redfield, Director for the Centers for Disease Control and Prevention (“CDC”), of the outbreak of a respiratory illness in the city of Wuhan.\textsuperscript{21} Redfield relayed the report to Alex Azar, Secretary for Health and Human Services (“HHS”), who reportedly relayed it to the White House.\textsuperscript{22}

Although the Executive Branch has publicly promised transparency, the White House reportedly ordered federal health officials to treat top-level coronavirus meetings as classified to keep meeting participation low and prevent leaks.\textsuperscript{23} Classification prevented relevant officials from attending the meetings because they did not possess the requisite security clearances.\textsuperscript{24}

On January 21, 2020, the CDC publicly confirmed the first U.S. novel coronavirus case, what is now known as SARS-CoV-2, in the state of Washington.\textsuperscript{25} In a memorandum dated January 29, 2020, Peter Navarro, President Trump’s trade advisor, warned the White House of “a full-blown pandemic, imperiling the lives of millions of Americans.”\textsuperscript{26} Although President Trump said he did not know about the memorandum at that time, press reports indicate that the President knew about it and was unhappy that Navarro had put his warning in writing.\textsuperscript{27} The same day, the White House announced the formation of “a coronavirus task force,” while noting that “[t]he risk of infection for Americans remains low.”\textsuperscript{28}

On January 30, 2020, the WHO declared the outbreak a “Public Health Emergency of International Concer.”\textsuperscript{29} Hours after that declaration, President Trump said during a speech on trade at a Michigan manufacturing plant, that the virus was “going to have a very good ending for us. So that I can assure you.”\textsuperscript{30}

The WHO began supplying diagnostic test kits to various countries in January, but the U.S. did not use that


\textsuperscript{22} Id.


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test, choosing to develop its own. 31 Contrary to an April 2018 agreement between the CDC and three of the biggest associations involved in lab testing, the Executive Branch reportedly prevented non-government laboratories from assisting in testing. 32 The CDC released a flawed test in February 2020 that took weeks to correct. 33

The Executive Branch has responded disparately to state governors’ requests for drugs, medical supplies and equipment, prompting questions about whether politics influenced their allocation across states. 34

From January until early March 2020, President Trump continued to downplay the threat posed by the novel coronavirus. 35 On January 22, President Trump said he was not worried about a pandemic, stating, “We have it totally under control...it’s one person coming in from China, and we have it under control. It’s going to be just fine.” 36 On January 24, President Trump tweeted that the “United States greatly appreciates [China’s] efforts and transparency,” and “it will all work out well.” 37 On February 7, 2020, he tweeted that as the weather starts to warm...the virus hopefully becomes weaker, and then gone.” 38 On February 10, he stated at a New Hampshire rally, “looks like, by April, you know, in theory, when it gets a little warmer, it miraculously goes away.” 39 On February 24, he tweeted that “[t]he Coronavirus is very much under control in the USA.” 40 On March 7, President Trump publicly stated that “[a]nybody that needs a test, gets a test. They’re there. They have the tests. And the tests are beautiful.” 41

On March 13, 2020, however, President Trump declared a national state of emergency to combat the novel coronavirus. 42 On March 16, 2020, in response to a question about his repeated claim of everything being “under control” he said, “If you’re talking about the virus, no, that’s not under control for any place in the world...I was talking about what we’re doing is under control, but I’m not talking about the virus.” 43 On March 19, President Trump publicly suggested during his daily coronavirus briefing that the drugs Remdesivir, Chloroquine and Hydroxychloroquine were a possible “game changer” for treating COVID-19, 44 despite insufficient evidence of their efficacy. 45 A few days later, a man died and his wife was hospitalized

33 Id.
45 Charles Orstein, What We Know — and Don’t Know — About Possible Coronavirus Treatments Promoted by Trump, Politico (Mar. 29, 2020), https://www.propublica.org/article/what-we-know-and-dont-know-about-possible-coronavirus-treatments-
after the couple ingested a form of Chloroquine.46

On April 3, 2020, President Trump reversed previous guidance on masks while announcing that people in the U.S. should wear face coverings in public to slow the spread of what is now known as SARS-CoV-2.47 On April 14, contrary to his previous praise for China’s “efforts and transparency,”48 President Trump announced that he had instructed the Executive Branch to suspend funding to the WHO because it “willingly took China’s assurances to face value” and “pushed China’s misinformation.”49

On April 16, 2020, after the White House released nonbinding guidelines recommending how and when states and localities should begin to reopen parts of the economy, President Trump stated that governors could reopen businesses by May 1 or earlier if they believed it prudent.50 On April 22, 2020, Dr. Rick Bright, former director of HHS Biomedical Advanced Research and Development Authority and deputy assistant secretary for preparedness and response, said that he was dismissed from his positions and transferred to the National Institutes of Health after he pressed for rigorous vetting of Hydroxychloroquine, the drug embraced by President Trump for treating the virus.51

On April 23, 2020, President Trump suggested at a White House briefing that an “injection inside” the human body with a disinfectant could help combat COVID-19.52 The same day, the Environmental Protection Agency issued a press release warning against ingesting disinfectants or applying them on the human body.53 The day after the President suggested that a disinfectant injection could counter the virus, New York City’s poison control center reported receiving a higher-than-normal number of calls, many of them relating to exposure to disinfectants.54

C. APPLICATION FOR EXPEDITED PROCESSING

The Justice Initiative requests expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E), as the information and records requested are urgently needed to inform the public about actual or alleged government activity, see 5 U.S.C. § 552(a)(6)(E)(v)(II), and as explained below, the Justice Initiative is an organization “primarily engaged in disseminating information…to inform the public concerning” that activity. 5 U.S.C. § 552(a)(6)(E)(v)(I). In addition, the Justice Initiative requests expeditions on the grounds that failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual. See 5 U.S.C. § 552(a)(6)(E)(v)(I).


The Executive Branch’s efforts to counter SARS-CoV-2 are literally a matter of life and death for the American public. The virus is quickly spreading, killing thousands of people daily in the United States.55 As of April 27, 2020, there were nearly one million confirmed cases of COVID-19 and over 55,000 individuals had died from the virus in the United States.56 The eventual national death toll will be in the tens to hundreds of thousands, according to estimates by health experts and the government.57

The timing and content of the Executive Branch’s response to the novel coronavirus, including what it knew or should have known about the virus and when, what measures it has taken to stem the spread, and how it is has engaged with Congress, state governors, WHO and other relevant bodies, is the subject of ongoing and intense public debate.58 Executive Branch officials have issued conflicting statements about the threat of the virus, the availability of testing, the duration of the risk of transmission, and the efficacy of masks and particular medications and treatment for the disease.59 As such, there is significant uncertainty about how to interpret government statements and actions relevant for determining how individuals in the U.S. should protect themselves from the coronavirus.60 Significantly, after President Trump publicly suggested that Chloroquine was a possible “game changer,” a man died and his wife was hospitalized after the couple ingested a form of the chemical.61 The day after the President suggested that a disinfectant injection could

56 See e.g., COVID-19 Dashboard by the Center for Systems Science and Engineering (CSSE) at John Hopkins University, U.S. Map, https://coronavirus.jhu.edu/map.html (last accessed Apr. 27, 2020 at 3:41 pm (EST)).
counter the virus, New York City’s poison control center reported receiving a higher-than-normal number of calls, many of them relating to exposure to disinfectants.62

In this context, failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of individuals in the United States. The information requested here is urgently needed for individuals in the United States to assess the government’s response to the virus and to make informed decisions about life and physical safety.

Furthermore, the Justice Initiative is “primarily engaged in disseminating information” within the meaning of the FOIA.63 Am. Civil Liberties Union v. Dep’t of Justice, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (finding that a non-profit, public interest group that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience” is “primarily engaged in disseminating information” within the meaning of the statute and regulations); cf. Elec. Privacy Info. Ctr. v. U.S. Dep’t of Def., 241 F. Supp. 2d 5, 11-12 (D.D.C. 2003) (finding that the Electronic Privacy Information Center was a representative of the news media based on its publication of seven books about national and international policies relating to privacy and civil rights); see also Nat’l Sec. Archive v. U.S. Dep’t of Def., 880 F.2d 1381, 1386 (D.C. Cir. 1989) (National Security Archive deemed a representative of the news media after publishing one book and indicating its intention to publish a set of documents on national and international politics and nuclear policy).

The Justice Initiative is an operating public interest law center dedicated to upholding human rights and the rule of law through litigation, advocacy, research, and technical assistance, with offices in New York, London, and Berlin. It is part of the Open Society Institute (“OSI”), a tax-exempt, non-partisan, not-for-profit organization, headquartered in New York City. OSI believes that solutions to national, regional, and global challenges require the free exchange of ideas and thought, and works to build vibrant and inclusive societies, grounded in respect for human rights and the rule of law, whose governments are accountable and open to the participation of all people. In support of their shared mission, OSI and the Justice Initiative share information with the public free of charge, through their websites, newsletters, and other publications to promote public understanding and robust debate. Disseminating information is among the Justice Initiative’s core activities. To accomplish its goals, the Justice Initiative maintains a website, www.justiceinitiative.org, through which it disseminates reports, briefing papers, fact sheets and other publications relating to its mission (https://www.justiceinitiative.org/publications). It also directly distributes hard copies of publications and disseminates information through quarterly email newsletters, blogs (www.opensocietyfoundations.org/voices), Twitter (www.twitter.com/OSFJustice) and Facebook (www.facebook.com/OpenSocietyFoundations).

We affirm that information and statements concerning the need for expedited processing are true and correct to the best of our knowledge and belief.

D. APPLICATION FOR FEE WAIVER

We request a waiver of search, review and duplication fees on the grounds that disclosure of the requested information “is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii).

As set forth in Section C above, the information and records at issue will contribute significantly to the public understanding of the timing and content of the government’s response to COVID-19. Moreover, the Justice Initiative, a non-profit entity, does not seek disclosure of these records for commercial gain and intends to disseminate the information disclosed from this request to the public at no cost.

chloroquine-to-prevent-covid-19


In addition, for the same reasons that render it “primarily engaged in disseminating information,” see Section C supra, the Justice Initiative is also a “representative of the news media” within the meaning of the FOIA. As such, it is entitled to a fee waiver. See 5 U.S.C. § 552(a)(4)(A)(ii)(II); see also Judicial Watch, Inc. v. Rossotti, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (recognizing Congress’s intent that FOIA’s fee waiver provision is to be “liberally construed in favor of waivers for noncommercial requesters.”).

* * * * *

Pursuant to 5 U.S.C. § 552(a)(6)(E)(ii)(I) and 5 U.S.C. § 552(a)(6)(A)(i), respectively, we look forward to your reply to the request for expedited processing within ten calendar days, and to the request for disclosure within twenty days.

We request that responsive records be provided electronically in their native file format, if possible. See 5 U.S.C. § 552(a)(3)(B). Alternatively, we request that the records be provided electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency’s possession, and that the records be provided in separate, Bates-stamped files.

If this request is denied in whole or part, please justify all withholdings by reference to specific exemptions and statutes, as applicable. For each withholding please also explain why your agency “reasonably foresees that disclosure would harm an interest protected by an exemption” or why “disclosure is prohibited by law[.]” 5 U.S.C. § 552(a)(8)(A)(i). We seek the release of all segregable portions of otherwise exempt material, see 5 U.S.C. § 552(b). We also reserve the right to appeal any decision in relation to this Request.

Thank you for your prompt attention to this Request. Please send all records and correspondence by email to Amrit Singh at amrit.singh@opensocietyfoundations.org.

Sincerely,

[Signature]

Amrit Singh
Natasha Arnpriester
James A. Goldston
Open Society Justice Initiative
224 West 57th Street
New York, New York 10019
Phone: (212) 548-0600
Fax: (212) 548-4662
April 27, 2020

DEPARTMENT OF STATE
Office of Information Programs and Services
A/GIS/IPS/RL
SA-2, Suite 8100
Washington, D.C. 20520-0000
Phone: (202) 261-8484
Fax: (202) 485-1669
FOIARequest@state.gov

Re: Freedom of Information Act Request
Expedited Processing and Fee Waiver Requested

To whom it may concern:

This letter constitutes a request (“Request”) pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 submitted on behalf of the Open Society Justice Initiative (“Justice Initiative”), an operational program of the Open Society Institute (“OSI”), a New York State charitable trust and nonprofit organization. We request records concerning the timing and substance of the Executive Branch’s response to the novel coronavirus, now known as severe acute respiratory syndrome coronavirus 2 or “SARS-CoV-2,” the virus that causes the disease known as coronavirus disease 2019 or “COVID-19.”

We respectfully ask that requests contained herein be forwarded to any other component agency as appropriate.

Expedited processing is requested pursuant to 5 U.S.C. § 552(a)(6)(E), as is a fee waiver, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii).

A. RECORDS REQUESTED

The Justice Initiative requests disclosure of the following records:


2 For the purpose of this request, the term “records” includes, but is not limited to, any and all agendas, agreements; analyses; calendars; correspondence; data; databases; directives; documents; e-mails and e-mail attachments, including sent through personal email accounts (e.g., Gmail); reports; rules; schedules; studies; tables of contents and contents of binders; talking points; technical specifications; training materials; examinations; faxes; files; guidance; guidelines; evaluations; instructions; letters; manifests; manuals; memoranda; notes; orders; prepared documentation for meetings, calls, teleconferences, or other discussions responsive to our request; policies; procedures; protocols; text messages and messages sent or received through other messaging applications (e.g., WhatsApp, iMessage, Signal); voicemails; and any other materials. In the event that such records once existed but have now been destroyed, please disclose any records that are integrally related to, summarize, or are interchangeable with said records. Press clippings and news articles that are unaccompanied by any commentary need not be produced.
I. Notice of SARS-CoV-2 and COVID-19

1. Records indicating when the Executive Branch was first informed of what is now known as SARS-CoV-2 and/or COVID-19.
2. Records indicating the Executive Branch’s response when it was first informed of what is now known as SARS-CoV-2 and/or COVID-19.
3. Records indicating when President Donald Trump was first informed of what is now known as SARS-CoV-2 and/or COVID-19.
4. Records indicating President Trump’s response when he was first informed of what is now known as SARS-CoV-2 and/or COVID-19.
5. Records including and/or discussing communications (before March 1, 2020) to and from the National Center for Medical Intelligence (“NCMI”) about what is now known as SARS-CoV-2 and/or COVID-19.3
6. Records including and/or discussing January 2020 communications to and from a State Department epidemiologist about what is now known as SARS-CoV-2 and/or COVID-19.4
7. Records including and/or discussing January 2020 communications between Robert Redfield, Director, Centers for Disease Control and Prevention, and Chinese officials about what is now known as SARS-CoV-2 and/or COVID-19.5
8. Records including and/or discussing communications (from January 1, 2020 to February 29, 2020) between Alex Azar, Secretary, Health and Human Services, and President Donald Trump about what is now known as SARS-CoV-2 and/or COVID-19.6
9. Records including and/or discussing communications (from January 1, 2020 to February 29, 2020) to and from Dr. Carter Mecher, senior medical advisor, Department of Veterans Affairs, about what is now known as SARS-CoV-2 and/or COVID-19.7
10. Records including and/or discussing communications (from January 1, 2020 to March 31, 2020) to and from Robert Kadlec, Assistant Secretary for Preparedness and Response, about asymptomatic cases spreading what is now known as SARS-CoV-2 and/or COVID-19.8
11. Records discussing communications (from January 1, 2020 to February 29, 2020) from Peter Navarro, President Trump’s trade advisor, about what is now known as SARS-CoV-2 and/or COVID-19.9

II. The Executive Branch’s Efforts to Counter SARS-CoV-2 and COVID-19

12. Records concerning extraordinary presidential authority, including but not limited to “presidential emergency actions” relating to what is now known as SARS-CoV-2 and/or COVID-19.10
13. Records indicating dates and agendas for meetings and decisions of the official White House coronavirus task force during January and February 2020.11

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7 Id.
8 Id.
14. Records including and/or discussing “Four steps to mitigation,” a February/March 2020 plan for addressing what is now known as SARS-CoV-2 and/or COVID-19.12
15. Records including and/or discussing a February 2020 document titled “U.S. Government Response to the 2019 Novel Coronavirus.”13
16. Records including and/or discussing communications to or from Dr. Nancy Messonnier, Director of the National Center for Immunization and Respiratory Diseases, about her February 25, 2020 public warning about what is now known as SARS-CoV-2 and/or COVID-19.14
17. Records discussing Remdesivir, Chloroquine, Hydroxychloroquine (“Plaquenil”), Azithromycin (“Zithromax”) and/or other drugs or substances, such as disinfectants, for treating what is now known as SARS-CoV-2 and/or COVID-19.15
18. Records discussing federal officials’ questioning of and/or divergence from President Trump’s public positions regarding what is now known as SARS-CoV-2 and/or COVID-19, including but not limited to records concerning Dr. Rick Bright, Director of the Biomedical Advanced Research and Development Authority, and Dr. Anthony Fauci, Director of the National Institute of Allergy and Infectious Diseases.16
19. Records including and/or discussing instructions to classify meetings and/or records relating to what is now known as SARS-CoV-2 and/or COVID-19.17
20. Communications between your agency and the White House regarding what is now known as SARS-CoV-2 and/or COVID-19.
21. Communications between the Executive Branch and non-government entities (including but not limited to private-sector companies, academic institutions and/or individuals) capable of developing tests, or assisting in testing, for what is now known as SARS-CoV-2 and/or COVID-19.18

III. Executive Branch SARS-CoV-2 and COVID-19 Communications with Congress, State Governors, and the WHO

22. Records including and/or discussing communications (before March 1, 2020) between any member of the Executive Branch and Congress regarding what is now known as SARS-CoV-2 and/or COVID-19, including but not limited to briefings to Congress, members of Congress, Congressional Committees or Subcommittees, and/or Congressional staff about what is now known as SARS-CoV-2 and/or COVID-19.19

12 Id.
13 Id.
14 Id.
23. Records including and/or discussing communications between the Executive Branch and the World Health Organization (“WHO”) about what is now known as SARS-CoV-2 and/or COVID-19.20

B. BACKGROUND

The earliest known case of COVID-19 (the disease caused by what is now known as SARS-CoV-2) reportedly can be traced back to November 17, 2019, in Hubei province, China.21 By December 31, 2019, health officials in Wuhan posted a notice that they were investigating an outbreak of pneumonia in the city, and the World Health Organization (“WHO”) acknowledged that on that date it “was informed of a cluster of cases of pneumonia of unknown cause.”22 As of January 3, 2020, Chinese authorities reported a total of 44 patients with pneumonia of unknown etiology to the WHO.23

Media reports provide varying accounts of when the U.S. Executive Branch first received notice of what is now known as SARS-CoV-2. ABC News reported, for example, that a November intelligence report by the military’s National Center for Medical Intelligence (“NCMI”) detailed concerns about what is now known as SARS-CoV-2, and the report “was briefed multiple times” to the Defense Intelligence Agency (“DIA”), the Pentagon’s Joint Staff, and the White House.24 According to the New York Times, in early January 2020, the State Department’s epidemiologist wrote in a report to the director of national intelligence that the virus was likely to spread across the globe and become a pandemic, and NCMI independently arrived at the same conclusion.25 The New York Times also reported that in January 2020, U.S. intelligence agencies regularly provided information about the global danger of what is now known as SARS-CoV-2 to Executive Branch officials and members of Congress, including in daily briefing papers and digests from the Office of the Director of National Intelligence (“ODNI”) and the Central Intelligence Agency (“CIA”).26 According to the Washington Post, on January 3, 2020, a Chinese official informed Robert Redfield, Director for the Centers for Disease Control and Prevention (“CDC”), of the outbreak of a respiratory illness in the city of Wuhan.27 Redfield relayed the report to Alex Azar, Secretary for Health and Human Services (“HHS”), who reportedly relayed it to the White House.28

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virus, the availability of testing, the duration of the risk of transmission, and the efficacy of masks and particular medications and treatment for the disease.\(^65\) As such, there is significant uncertainty about how to interpret government statements and actions relevant for determining how individuals in the U.S. should protect themselves from the coronavirus.\(^66\) Significantly, after President Trump publicly suggested that Chloroquine was a possible “game changer,” a man died and his wife was hospitalized after the couple ingested a form of the chemical.\(^67\) The day after the President suggested that a disinfectant injection could counter the virus, New York City’s poison control center reported receiving a higher-than-normal number of calls, many of them relating to exposure to disinfectants.\(^68\)

In this context, failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of individuals in the United States. The information requested here is urgently needed for individuals in the United States to assess the government’s response to the virus and to make informed decisions about life and physical safety.

Furthermore, the Justice Initiative is “primarily engaged in disseminating information” within the meaning of the FOIA.\(^69\) Am. Civil Liberties Union v. Dep’t of Justice, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (finding that a non-profit, public interest group that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience” is “primarily engaged in disseminating information” within the meaning of the statute and regulations); cf. Elec. Privacy Info. Ctr. v. U.S. Dep’t of Def., 241 F. Supp. 2d 5, 11-12 (D.D.C. 2003) (finding that the Electronic Privacy Information Center was a representative of the news media based on its publication of seven books about national and international policies relating to privacy and civil rights); see also Nat’l Sec. Archive v. U.S. Dep’t of Def., 880 F.2d 1381, 1386 (D.C. Cir. 1989) (National Security Archive deemed a representative of the news media after publishing one book and indicating its intention to publish a set of documents on national and international politics and nuclear policy).

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and Berlin. It is part of the Open Society Institute (“OSI”), a tax-exempt, non-partisan, not-for-profit organization, headquartered in New York City. OSI believes that solutions to national, regional, and global challenges require the free exchange of ideas and thought, and works to build vibrant and inclusive societies, grounded in respect for human rights and the rule of law, whose governments are accountable and open to the participation of all people. In support of their shared mission, OSI and the Justice Initiative share information with the public free of charge, through their websites, newsletters, and other publications to promote public understanding and robust debate. Disseminating information is among the Justice Initiative’s core activities. To accomplish its goals, the Justice Initiative maintains a website, www.justiceinitiative.org, through which it disseminates reports, briefing papers, fact sheets and other publications relating to its mission (https://www.justiceinitiative.org/publications). It also directly distributes hard copies of publications and disseminates information through quarterly email newsletters, blogs (www.opensocietyfoundations.org/voices), Twitter (www.twitter.com/OSFJustice) and Facebook (www.facebook.com/OpenSocietyFoundations).

We affirm that information and statements concerning the need for expedited processing are true and correct to the best of our knowledge and belief.

**D. APPLICATION FOR FEE WAIVER**

We request a waiver of search, review and duplication fees on the grounds that disclosure of the requested information “is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii).

As set forth in Section C above, the information and records at issue will contribute significantly to the public understanding of the timing and content of the government’s response to COVID-19. Moreover, the Justice Initiative, a non-profit entity, does not seek disclosure of these records for commercial gain and intends to disseminate the information disclosed from this request to the public at no cost.

In addition, for the same reasons that render it “primarily engaged in disseminating information,” see Section C supra, the Justice Initiative is also a “representative of the news media” within the meaning of the FOIA. As such, it is entitled to a fee waiver. See 5 U.S.C. § 552(a)(4)(A)(ii)(II); see also Judicial Watch, Inc. v. Rossotti, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (recognizing Congress’s intent that FOIA’s fee waiver provision is to be “liberally construed in favor of waivers for noncommercial requesters.”).

* * *

Pursuant to 5 U.S.C. § 552(a)(6)(E)(ii)(I) and 5 U.S.C. § 552(a)(6)(A)(i), respectively, we look forward to your reply to the request for expedited processing within ten calendar days, and to the request for disclosure within twenty days.

We request that responsive records be provided electronically in their native file format, if possible. See 5 U.S.C. § 552(a)(3)(B). Alternatively, we request that the records be provided electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency’s possession, and that the records be provided in separate, Bates-stamped files.

If this request is denied in whole or part, please justify all withholdings by reference to specific exemptions and statutes, as applicable. For each withholding please also explain why your agency “reasonably foresees that disclosure would harm an interest protected by an exemption” or why “disclosure is prohibited by law[.]” 5 U.S.C. § 552(a)(8)(A)(i). We seek the release of all segregable portions of otherwise exempt material, see 5 U.S.C. § 552(b). We also reserve the right to appeal any decision in relation to this Request.

Thank you for your prompt attention to this Request. Please send all records and correspondence by email to Amrit Singh at amrit.singh@opensocietyfoundations.org.
Sincerely,

Amrit Singh
Natasha Arnpreister
James A. Goldston
Open Society Justice Initiative
224 West 57th Street
New York, New York 10019
Phone: (212) 548-0600
Fax: (212) 548-4662
April 27, 2020

Via email

DEPARTMENT OF TREASURY
FOIA/PA Request
FOIA and Transparency
Department of the Treasury
Washington, DC 20220
treasfoia@treasury.gov

Re: Freedom of Information Act Request
Expedited Processing and Fee Waiver Requested

To whom it may concern:

This letter constitutes a request (“Request”) pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 submitted on behalf of the Open Society Justice Initiative (“Justice Initiative”), an operational program of the Open Society Institute (“OSI”), a New York State charitable trust and nonprofit organization. We request records concerning the timing and substance of the Executive Branch’s response to the novel coronavirus, now known as severe acute respiratory syndrome coronavirus 2 or “SARS-CoV-2,” the virus that causes the disease known as coronavirus disease 2019 or “COVID-19.”¹ We respectfully ask that requests contained herein be forwarded to any other component agency as appropriate.

Expedited processing is requested pursuant to 5 U.S.C. § 552(a)(6)(E), as is a fee waiver, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii).

A. RECORDS REQUESTED

The Justice Initiative requests disclosure of the following records:²


² For the purpose of this request, the term “records” includes, but is not limited to, any and all agendas, agreements; analyses; calendars; correspondence; data; databases; directives; documents; e-mails and e-mail attachments, including sent through personal email accounts (e.g., Gmail); reports; rules; schedules; studies; tables of contents and contents of binders; talking points; technical specifications; training materials; examinations; faxes; files; guidance; guidelines; evaluations; instructions; letters; manifests; manuals; memoranda; notes; orders; prepared documentation for meetings, calls, teleconferences, or other discussions responsive to our request; policies; procedures; protocols; text messages and messages sent or received through other messaging applications (e.g., WhatsApp, iMessage, Signal); voicemails; and any other materials. In the event that such records once existed but have now been destroyed, please disclose any records that are integrally related to, summarize, or are interchangeable with said records. Press clippings and news articles that are unaccompanied by any commentary need not be produced.
I. Notice of SARS-CoV-2 and COVID-19

1. Records indicating when the Executive Branch was first informed of what is now known as SARS-CoV-2 and/or COVID-19.
2. Records indicating the Executive Branch’s response when it was first informed of what is now known as SARS-CoV-2 and/or COVID-19.
3. Records indicating when President Donald Trump was first informed of what is now known as SARS-CoV-2 and/or COVID-19.
4. Records indicating President Trump’s response when he was first informed of what is now known as SARS-CoV-2 and/or COVID-19.
5. Records including and/or discussing communications (before March 1, 2020) to and from the National Center for Medical Intelligence (“NCMI”) about what is now known as SARS-CoV-2 and/or COVID-19.
6. Records including and/or discussing January 2020 communications to and from a State Department epidemiologist about what is now known as SARS-CoV-2 and/or COVID-19.
7. Records including and/or discussing January 2020 communications between Robert Redfield, Director, Centers for Disease Control and Prevention, and Chinese officials about what is now known as SARS-CoV-2 and/or COVID-19.
8. Records including and/or discussing communications (from January 1, 2020 to February 29, 2020) between Alex Azar, Secretary, Health and Human Services, and President Donald Trump about what is now known as SARS-CoV-2 and/or COVID-19.
9. Records including and/or discussing communications (from January 1, 2020 to February 29, 2020) to and from Dr. Carter Mecher, senior medical advisor, Department of Veterans Affairs, about what is now known as SARS-CoV-2 and/or COVID-19.
10. Records including and/or discussing communications (from January 1, 2020 to March 31, 2020) to and from Robert Kadlec, Assistant Secretary for Preparedness and Response, about asymptomatic cases spreading what is now known as SARS-CoV-2 and/or COVID-19.
11. Records discussing communications (from January 1, 2020 to February 29, 2020) from Peter Navarro, President Trump’s trade advisor, about what is now known as SARS-CoV-2 and/or COVID-19.

II. The Executive Branch’s Efforts to Counter SARS-CoV-2 and COVID-19

12. Records discussing requests and need for and availability and allocation (including across states) of resources for testing for what is now known as SARS-CoV-2 and/or COVID-19 in the U.S.
13. Records discussing requests and need for and availability and allocation (including across states) of

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7 Id.
8 Id.
medical supplies and equipment (including but not limited to drugs, ventilators, and vaccines), Personal Protective Equipment (“PPE”) and/or masks for what is now known as SARS-CoV-2 and/or COVID-19 in the U.S.\(^\text{12}\)

14. Records discussing immunity to what is now known as SARS-CoV-2 and/or COVID-19 in the U.S.\(^\text{13}\)

15. Records discussing the timing and duration of social distancing measures in the U.S.\(^\text{14}\)

16. Records concerning extraordinary presidential authority, including but not limited to “presidential emergency actions” relating to what is now known as SARS-CoV-2 and/or COVID-19.\(^\text{15}\)

17. Records indicating dates and agendas for meetings and decisions of the official White House coronavirus task force during January and February 2020.\(^\text{16}\)

18. Records including and/or discussing “Four steps to mitigation,” a February/March 2020 plan for addressing what is now known as SARS-CoV-2 and/or COVID-19.\(^\text{17}\)

19. Records including and/or discussing a February 2020 document titled “U.S. Government Response to the 2019 Novel Coronavirus.”\(^\text{18}\)

20. Records including and/or discussing communications to or from Dr. Nancy Messonnier, Director of the National Center for Immunization and Respiratory Diseases, about her February 25, 2020 public warning about what is now known as SARS-CoV-2 and/or COVID-19.\(^\text{19}\)

21. Records discussing Remdesivir, Chloroquine, Hydroxychloroquine (“Plaquenil”), Azithromycin (“Zithromax”) and/or other drugs or substances, such as disinfectants, for treating what is now known as SARS-CoV-2 and/or COVID-19.\(^\text{20}\)

22. Records discussing federal officials’ questioning of and/or divergence from President Trump’s public positions regarding what is now known as SARS-CoV-2 and/or COVID-19, including but not limited to records concerning Dr. Rick Bright, Director of the Biomedical Advanced Research and Development Authority, and Dr. Anthony Fauci, Director of the National Institute of Allergy and Infectious Diseases.\(^\text{21}\)

23. Records discussing in-person and/or mail-in voting in the context of what is now known as SARS-CoV-2 and/or COVID-19.\(^\text{22}\)

24. Records including and/or discussing instructions to classify meetings and/or records relating to what

\(^\text{12}\) Id.


\(^\text{17}\) Id.

\(^\text{18}\) Id.

\(^\text{19}\) Id.


is now known as SARS-CoV-2 and/or COVID-19.  

25. Communications between your agency and the White House regarding what is now known as SARS-CoV-2 and/or COVID-19.

26. Communications between the Executive Branch and non-government entities (including but not limited to private-sector companies, academic institutions and/or individuals) capable of developing tests, or assisting in testing, for what is now known as SARS-CoV-2 and/or COVID-19.  

III. Executive Branch SARS-CoV-2 and COVID-19 Communications with Congress, State Governors, and the WHO

27. Records including and/or discussing communications (before March 1, 2020) between any member of the Executive Branch and Congress regarding what is now known as SARS-CoV-2 and/or COVID-19, including but not limited to briefings to Congress, members of Congress, Congressional Committees or Subcommittees, and/or Congressional staff about what is now known as SARS-CoV-2 and/or COVID-19.

28. Records including and/or discussing communications between the White House and a state governor or his/her office about the timing and duration of social distancing measures and federal assistance to states for what is now known as SARS-CoV-2 and/or COVID-19, including but not limited to any direct financial assistance and assistance on medical supplies and equipment (including but not limited to drugs, ventilators, and vaccines), personal protective equipment (PPE), masks and testing for what is now known as SARS-CoV-2 and/or COVID-19.

29. Records including and/or discussing communications between the Executive Branch and the World Health Organization (“WHO”) about what is now known as SARS-CoV-2 and/or COVID-19.

B. BACKGROUND

The earliest known case of COVID-19 (the disease caused by what is now known as SARS-CoV-2) reportedly can be traced back to November 17, 2019, in Hubei province, China. By December 31, 2019, health officials in Wuhan posted a notice that they were investigating an outbreak of pneumonia in the city, and the World Health Organization (“WHO”) acknowledged that on that date it “was informed of a cluster of cases of pneumonia of unknown cause.” As of January 3, 2020, Chinese authorities reported a total of 44 patients with pneumonia of unknown etiology to the WHO.

Media reports provide varying accounts of when the U.S. Executive Branch first received notice of what is now known as SARS-CoV-2. ABC News reported, for example, that a November intelligence report by the military’s National Center for Medical Intelligence (“NCMI”) detailed concerns about what is now known as SARS-CoV-2, and the report “was briefed multiple times” to the Defense Intelligence Agency (“DIA”), the


Pentagon’s Joint Staff, and the White House. According to the New York Times, in early January 2020, the State Department’s epidemiologist wrote in a report to the director of national intelligence that the virus was likely to spread across the globe and become a pandemic, and NCMI independently arrived at the same conclusion. The New York Times also reported that in January 2020, U.S. intelligence agencies regularly provided information about the global danger of what is now known as SARS-CoV-2 to Executive Branch officials and members of Congress, including in daily briefing papers and digests from the Office of the Director of National Intelligence (“ODNI”) and the Central Intelligence Agency (“CIA”). According to the Washington Post, on January 3, 2020, a Chinese official informed Robert Redfield, Director for the Centers for Disease Control and Prevention (“CDC”), of the outbreak of a respiratory illness in the city of Wuhan. Redfield relayed the report to Alex Azar, Secretary for Health and Human Services (“HHS”), who reportedly relayed it to the White House.

Although the Executive Branch has publicly promised transparency, the White House reportedly ordered federal health officials to treat top-level coronavirus meetings as classified to keep meeting participation low and prevent leaks. Classification prevented relevant officials from attending the meetings because they did not possess the requisite security clearances.

On January 21, 2020, the CDC publicly confirmed the first U.S. novel coronavirus case, what is now known as SARS-CoV-2, in the state of Washington. In a memorandum dated January 29, 2020, Peter Navarro, President Trump’s trade advisor, warned the White House of “a full-blown pandemic, imperiling the lives of millions of Americans.” Although President Trump said he did not know about the memorandum at that time, press reports indicate that the President knew about it and was unhappy that Navarro had put his warning in writing. The same day, the White House announced the formation of “a coronavirus task force,” while noting that “[t]he risk of infection for Americans remains low.”

On January 30, 2020, the WHO declared the outbreak a “Public Health Emergency of International Concern.” Hours after that declaration, President Trump said during a speech on trade at a Michigan manufacturing plant, that the virus was “going to have a very good ending for us. So that I can assure you.”

34 Id.
36 Id.
The WHO began supplying diagnostic test kits to various countries in January, but the U.S. did not use that test, choosing to develop its own.\(^{43}\) Contrary to an April 2018 agreement between the CDC and three of the biggest associations involved in lab testing, the Executive Branch reportedly prevented non-government laboratories from assisting in testing.\(^{44}\) The CDC released a flawed test in February 2020 that took weeks to correct.\(^{45}\)

The Executive Branch has responded disparately to state governors’ requests for drugs, medical supplies and equipment, prompting questions about whether politics influenced their allocation across states.\(^{46}\)

From January until early March 2020, President Trump continued to downplay the threat posed by the novel coronavirus.\(^{47}\) On January 22, President Trump said he was not worried about a pandemic, stating, “We have it totally under control...It’s one person coming in from China, and we have it under control. It’s going to be just fine.”\(^{48}\) On January 24, President Trump tweeted that the “United States greatly appreciates [China’s] efforts and transparency,” and “it will all work out well.”\(^{49}\) On February 7, 2020, he tweeted that “as the weather starts to warm...the virus hopefully becomes weaker, and then gone.”\(^{50}\) On February 10, he stated at a New Hampshire rally, “looks like, by April, you know, in theory, when it gets a little warmer, it miraculously goes away.”\(^{51}\) On February 24, he tweeted that “[t]he Coronavirus is very much under control in the USA.”\(^{52}\) On March 7, President Trump publicly stated that “[a]nybody that needs a test, gets a test. They’re there. They have the tests. And the tests are beautiful.”\(^{53}\)

On March 13, 2020, however, President Trump declared a national state of emergency to combat the novel coronavirus.\(^{54}\) On March 16, 2020, in response to a question about his repeated claim of everything being “under control” he said, “If you’re talking about the virus, no, that’s not under control for any place in the world...I was talking about what we’re doing is under control, but I’m not talking about the virus.”\(^{55}\) On March 19, President Trump publicly suggested during his daily coronavirus briefing that the drugs Remdesivir, Chloroquine and Hydroxychloroquine were a possible “game changer” for treating COVID-19, despite insufficient evidence of their efficacy.\(^{56}\) A few days later, a man died and his wife was hospitalized

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\(^{45}\) Id.


\(^{52}\) Donald J. Trump (@realDonaldTrump), Twitter (Feb. 24, 2020, 4:42 PM), https://twitter.com/realdonaldtrump/status/1232088127740174339.


\(^{57}\) Charles Ornstein, *What We Know — and Don’t Know — About Possible Coronavirus Treatments Promoted by Trump*, Politico
after the couple ingested a form of Chloroquine.\textsuperscript{58}

On April 3, 2020, President Trump reversed previous guidance on masks while announcing that people in the U.S. should wear face coverings in public to slow the spread of what is now known as SARS-CoV-2.\textsuperscript{59} On April 14, contrary to his previous praise for China’s “efforts and transparency,”\textsuperscript{60} President Trump announced that he had instructed the Executive Branch to suspend funding to the WHO because it “willingly took China’s assurances to face value” and “pushed China’s misinformation.”\textsuperscript{61}

On April 16, 2020, after the White House released nonbinding guidelines recommending how and when states and localities should begin to reopen parts of the economy, President Trump stated that governors could reopen businesses by May 1 or earlier if they believed it prudent.\textsuperscript{62} On April 22, 2020, Dr. Rick Bright, former director of HHS Biomedical Advanced Research and Development Authority and deputy assistant secretary for preparedness and response, said that he was dismissed from his positions and transferred to the National Institutes of Health after he pressed for rigorous vetting of Hydroxychloroquine, the drug embraced by President Trump for treating the virus.\textsuperscript{63}

On April 23, 2020, President Trump suggested at a White House briefing that an “injection inside” the human body with a disinfectant could help combat COVID-19.\textsuperscript{64} The same day, the Environmental Protection Agency issued a press release warning against ingesting disinfectants or applying them on the human body.\textsuperscript{65} The day after the President suggested that a disinfectant injection could counter the virus, New York City’s poison control center reported receiving a higher-than-normal number of calls, many of them relating to exposure to disinfectants.\textsuperscript{66}

C. APPLICATION FOR EXPEDITED PROCESSING

The Justice Initiative requests expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E), as the information and records requested are urgently needed to inform the public about actual or alleged government activity, see 5 U.S.C. § 552(a)(6)(E)(v)(II), and as explained below, the Justice Initiative is an organization “primarily engaged in disseminating information…to inform the public concerning” that activity. 5 U.S.C. § 552(a)(6)(E)(v)(I-II). In addition, the Justice Initiative requests expedition on the grounds that failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life


\textsuperscript{60} Donald J. Trump (@realDonaldTrump), Twitter (Jan. 24, 2020, 4:18 PM), https://twitter.com/realdonaldtrump/status/1220818115354923009.


\textsuperscript{63} A doctor says he was removed from his federal post after pressing for rigorous vetting of treatments embraced by Trump, N.Y. Times (Apr. 22, 2020), https://www.nytimes.com/2020/04/22/us/coronavirus-live-coverage.html#/link-652a269c.


The Executive Branch’s efforts to counter SARS-CoV-2 are literally a matter of life and death for the American public. The virus is quickly spreading, killing thousands of people daily in the United States. As of April 27, 2020, there were nearly one million confirmed cases of COVID-19 and over 55,000 individuals had died from the virus in the United States. The eventual national death toll will be in the tens to hundreds of thousands, according to estimates by health experts and the government.

The timing and content of the Executive Branch’s response to the novel coronavirus, including what it knew or should have known about the virus and when, what measures it has taken to stem the spread, and how it is has engaged with Congress, state governors, WHO and other relevant bodies, is the subject of ongoing and intense public debate. Executive Branch officials have issued conflicting statements about the threat of the virus, the availability of testing, the duration of the risk of transmission, and the efficacy of masks and particular medications and treatment for the disease. As such, there is significant uncertainty about how to interpret government statements and actions relevant for determining how individuals in the U.S. should protect themselves from the coronavirus. Significantly, after President Trump publicly suggested that Chloroquine was a possible “game changer,” a man died and his wife was hospitalized after the couple ingested a form of the chemical. The day after the President suggested that a disinfectant injection could


68 See e.g., COVID-19 Dashboard by the Center for Systems Science and Engineering (CSSE) at Johns Hopkins University, U.S. Map, https://coronavirus.jhu.edu/map.html (last accessed Apr. 27, 2020 at 12:20 pm (EST)).


73 Scott Neuman, Man Dies, Woman Hospitalized After Taking Form Of Chloroquine To Prevent COVID-19, NPR (Mar. 24, 2020),
counter the virus, New York City’s poison control center reported receiving a higher-than-normal number of calls, many of them relating to exposure to disinfectants.\textsuperscript{74}

In this context, failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of individuals in the United States. The information requested here is urgently needed for individuals in the United States to assess the government’s response to the virus and to make informed decisions about life and physical safety.

Furthermore, the Justice Initiative is “primarily engaged in disseminating information” within the meaning of the FOIA.\textsuperscript{75} Am. Civil Liberties Union v. Dep’t of Justice, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (finding that a non-profit, public interest group that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience” is “primarily engaged in disseminating information” within the meaning of the statute and regulations); cf. Elec. Privacy Info. Ctr. v. U.S. Dep’t of Def., 241 F. Supp. 2d 5, 11-12 (D.D.C. 2003) (finding that the Electronic Privacy Information Center was a representative of the news media based on its publication of seven books about national and international policies relating to privacy and civil rights); see also Nat’l Sec. Archive v. U.S. Dep’t of Def., 880 F.2d 1381, 1386 (D.C. Cir. 1989) (National Security Archive deemed a representative of the news media after publishing one book and indicating its intention to publish a set of documents on national and international politics and nuclear policy).

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We affirm that information and statements concerning the need for expedited processing are true and correct to the best of our knowledge and belief.

D. APPLICATION FOR FEE WAIVER

We request a waiver of search, review and duplication fees on the grounds that disclosure of the requested information “is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii).

As set forth in Section C above, the information and records at issue will contribute significantly to the public understanding of the timing and content of the government’s response to COVID-19. Moreover, the Justice Initiative, a non-profit entity, does not seek disclosure of these records for commercial gain and intends to


disseminate the information disclosed from this request to the public at no cost.

In addition, for the same reasons that render it “primarily engaged in disseminating information,” see Section C supra, the Justice Initiative is also a “representative of the news media” within the meaning of the FOIA. As such, it is entitled to a fee waiver. See 5 U.S.C. § 552(a)(4)(A)(ii)(II); see also Judicial Watch, Inc. v. Rossotti, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (recognizing Congress’s intent that FOIA’s fee waiver provision is to be “liberally construed in favor of waivers for noncommercial requesters.”).

* * * * *

Pursuant to 5 U.S.C. § 552(a)(6)(E)(ii)(I) and 5 U.S.C. § 552(a)(6)(A)(i), respectively, we look forward to your reply to the request for expedited processing within ten calendar days, and to the request for disclosure within twenty days.

We request that responsive records be provided electronically in their native file format, if possible. See 5 U.S.C. § 552(a)(3)(B). Alternatively, we request that the records be provided electronically in a text-searchable, static-image format (PDF), in the best image quality in the agency’s possession, and that the records be provided in separate, Bates-stamped files.

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Thank you for your prompt attention to this Request. Please send all records and correspondence by email to Amrit Singh at amrit.singh@opensocietyfoundations.org.

Sincerely,

Amrit Singh
Natasha Armriester
James A. Goldston
Open Society Justice Initiative
224 West 57th Street
New York, New York 10019
Phone: (212) 548-0600
Fax: (212) 548-4662