



May 28, 2021

VIA EMAIL - FOIARequest@state.gov

Kellie Robinson, Public Liaison
U.S. Department of State
A/GIS/IPS/PP
2201 C Street N.W., Suite B266
Washington, D. C. 20520-0000

Freedom of Information Act Request: State Department's Records Relating to the Origins of the COVID-19 Pandemic

Dear FOIA Officer:

America First Legal Foundation ("AFL") is a national, nonprofit organization. AFL works to promote the rule of law in the United States, prevent executive overreach, ensure due process and equal protection for all Americans, and promote knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States.

I. Background

The COVID-19 pandemic has dramatically changed everyday life for every American. Thousands of Americans have died and millions more have been infected. From seemingly endless stay-at-home orders, mask mandates, remote learning for millions of school-aged children, and indefinite telework or layoffs for tens of millions more, every American has seen an abrupt change in their lifestyle over the past year. Additionally, millions of family-owned businesses have closed due to prolonged shutdown orders, and many others are fighting to survive and could ill-afford another wave of lockdowns.

In all, the pandemic has cost the U.S. Government trillions of dollars in bailouts and stimulus spending, not to mention the untold costs of lost wages, revenues on businesses who have not asked for help. It has also taken a significant toll on the mental health and well being of people who have been forced to stay at home, not go to school, work, or other regular social activities. The pandemic has also been politicized and weaponized by the media and the political left to stoke fear and

division amongst the American populous in order to further a radically progressive and socialist agenda.

In recognition of these realities and to better understand the origins of the pandemic, State Department personnel had been looking into how the virus made the leap to humans and became a worldwide pandemic. Such information could be useful to not only prevent future pandemics but protect against potential biological weapons or potentially recover damages from the nation-state responsible for unleashing the virus on the world.

Many in the media and prominent members of the Democratic Party, including the Biden-Harris Administration and Congressional leaders, seemingly out of a visceral reaction to disagree and disparage President Trump, have continuously ridiculed President Trump for saying that the virus could have originated in a Wuhan lab.¹ A new report from the Wall Street Journal, however, shows U.S. Intelligence indicates knowledge of the fact that in November 2019, four months before the virus broke out in the United States, three researchers at the Wuhan Institute of Virology were hospitalized for COVID.² Such reports remind us of Dr. Li Wenliang who was silenced by the Chinese Communist Party for trying to warn the world of the virus, and who died in February 2020.³

Nevertheless, apparently recognizing that the world might now see that there is some merit to what President Trump has been saying all along, the Biden Administration has apparently ordered the State Department to stop any investigation into the origins of the coronavirus, presumably to spare themselves any political embarrassment.⁴

¹ Zachary Cohen, Alex Marquardt & Jim Acosta, *Trump Contradicts US Intel Community by Claiming He's Seen Evidence Coronavirus Originated in Chinese Lab*, CNN (May 1, 2020) <https://www.cnn.com/2020/04/30/politics/trump-intelligence-community-china-coronavirus-origins/index.html>. See also, Ethan Siegel, No, *Science Clearly Shows That COVID-19 Wasn't Leaked From a Wuhan Lab*, FORBES (May 20, 2021)

<https://www.forbes.com/sites/startswithabang/2021/05/20/no-science-clearly-shows-that-covid-19-wasnt-leaked-from-a-wuhan-lab/?sh=273a33d95585> (this narrative continued until as recently as three days before the Wall Street Journal broke the U.S. Intelligence cited in the next footnote).

² Michael R. Gordon, *Intelligence on Sick Staff at Wuhan Lab Fuels Debate on Covid-19 Origin*, WALL STREET JOURNAL (May 23, 2021) <https://www.wsj.com/articles/intelligence-on-sick-staff-at-wuhan-lab-fuels-debate-on-covid-19-origin-11621796228>.

³ Stephanie Hegarty, *The Chinese Doctor Who Tried To Warn Others About Coronavirus*, BBC (February 6, 2020) <https://www.bbc.com/news/world-asia-china-51364382#:~:text=Dr%20Li%20Wenliang%2C%20who%20was,his%20condition%20on%20state%20media>.

⁴ Brooke Singman & Jennifer Griffin, *Biden State Department Quietly Ended Team's Work Probing COVID Origin*, FOX NEWS (May 26, 2021) <https://www.foxnews.com/politics/biden-state-department-shut-down-team-covid-origin-investigation>.

To understand, and share with the public, how and why the Biden-Harris Administration has chosen to remain deliberately ignorant of the origins of the pandemic in contradiction to the clear national interest, AFL requests access to the following records under the Freedom of Information Act (FOIA), 5 U.S.C. § 552:

II. Requested Records

- A. All records, including but not limited to electronic mail, texts, memoranda, and handwritten notes, of, regarding, referring, or relating to the State Department's decision to cease, end, or terminate any investigation into the origins of the COVID-19 pandemic.

The timeframe for this request is January 20, 2021, to the date the requested records are processed.

- B. All records, including but not limited to electronic mail, texts, memoranda, and handwritten notes, of, regarding, referring, or relating to the origins of the COVID-19 virus and the COVID-19 pandemic, from, to, or in the possession of any of the following custodians:

1. Antony Blinken
2. Wendy Sherman
3. Brian McKeon
4. C.S. Eliot Kang
5. Derek H. Chollet
6. Timothy Betts
7. Robert Faucher
8. Lisa Peterson
9. Richard Albright
10. John Godfrey
11. Jonathan Moore
12. Carol Perez
13. Todd Brown (Acting Assistant Secretary for Diplomatic Security)
14. Victoria Nuland
15. Robert Godec
16. Sung Kim (Acting Assistant Secretary for East Asian and Pacific Affairs)
17. Donald Lu
18. Julie Chung
19. Jennifer Hall Godfrey
20. Kin Moy
21. Angeli Achrekar
22. Diana Shaw
23. Richard Visek
24. Asel Roberts

25. Robert Forden
26. Any person employed by or affiliated with the Office of the Secretary
27. The Department of State White House Liaison

The timeframe for this request is January 20, 2021, to the date the requested records are processed.

- C. All email communications between any “who.eop.gov” email address and any State Department employee regarding, referring, or relating to ending, terminating, or otherwise cutting off the State Department’s investigations into the origins of the COVID-19 virus and the COVID-19 pandemic.

The timeframe for this request is January 20, 2021, the date the requested records are processed.

II. Redactions and Searches

Redactions are disfavored as the FOIA’s exemptions are exclusive and must be narrowly construed. *Am. Immigration Lawyers Ass’n v. Exec. Office for Immigration Review (AILA)*, 830 F.3d 667, 676-79 (D.C. Cir. 2016). If a record contains information responsive to a FOIA request, then Department of State must disclose the entire record; a single record cannot be split into responsive and non-responsive bits. *Id.*; see also *Parker v. United States DOJ*, 278 F. Supp. 3d 446, 451 (D.D.C. 2017). Consequently, Department of State should produce email attachments.

In connection with this request, and to comply with your legal obligations:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics.
- In conducting your search, please construe the term “record” in the broadest possible sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek all records, including electronic records, audiotapes, videotapes, and photographs, as well as texts, letters, emails, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions.
- Our request includes any attachments to those records or other materials enclosed with a record when transmitted. If an email is responsive to our request, then our request includes all prior messages sent or received in that email chain, as well as any attachments.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such

as personal email accounts or text messages. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA. It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; AFL has a right to records contained in those files even if material has not yet been moved to official systems or if officials have, by intent or through negligence, failed to meet their obligations.

- Please use all tools available to your agency to conduct a complete and efficient search for potentially responsive records. Agencies are subject to governmentwide requirements to manage agency information electronically, and many agencies have adopted the National Archives and Records Administration (NARA) Capstone program, or similar policies. These systems provide options for searching emails and other electronic records in a manner that is reasonably likely to be more complete than just searching individual custodian files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency's archiving tools may capture that email under Capstone. At the same time, custodian searches are still necessary; you may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.
- If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.
- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

III. Fee Waiver Request

Per 5 U.S.C. § 552(a)(4)(A)(iii) and 22 C.F.R. § 171.16, AFL requests a waiver of all search and duplication fees associated with this request.

First, AFL is a qualified non-commercial public education and news media requester. AFL's mission includes promoting government transparency and accountability by gathering official information, analyzing it, and disseminating it through reports, press releases, and/or other media, including social media platforms, to educate the public. AFL is a new organization, but it has already demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular

substantive analyses posted to its website. For example, its officials routinely appear on national television and use social media platforms to disseminate the information it has obtained about federal government activities. In this case, AFL will make your records and your responses publicly available for the benefit of citizens, scholars, and others. The public's understanding of your policies and practices will be enhanced through AFL's analysis and publication of the requested records. As a nonprofit organization, AFL does not have a commercial purpose and the release of the information requested is not in AFL's financial interest.

Second, waiver is proper as disclosure of the requested information is "in the public interest because it is likely to contribute significantly to public understanding of operations or activities of the government." The public has a significant interest in understanding what the government is doing to investigate the origin of COVID-19, especially given the havoc it has wrought on every aspect of our society. Records with the potential to shed light on this issue would contribute significantly to public understanding of operations of the federal government. Moreover, this Administration and the media have repeatedly admonished, demonized, and mocked former President Trump for asserting that the pandemic began in a lab in Wuhan, China. If this Administration then instructed career civil servants from terminating an investigation that was leading to, or could have likely led to, that conclusion, that would be of significant public interest.

IV. Production

To accelerate release of responsive records, AFL welcomes production on an agreed rolling basis.

If possible, please provide responsive records in an electronic format by email. Alternatively, please provide responsive records in native format or in PDF format on a USB drive. Please send any responsive records being transmitted by mail to America First Legal Foundation, 600 14th Street NW, 5th Floor, Washington, D.C. 20005.

V. Conclusion

If you have any questions about how to construe this request for records or believe further discussions regarding search and processing would facilitate a more efficient production of records of interest to AFL, please do not hesitate to contact me at info@aflegal.org. Finally, if AFL's request for a fee waiver is not granted in full, please contact us immediately upon making that determination.

Thank you,

/s/ Gene P. Hamilton
Gene P. Hamilton
America First Legal Foundation