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<https://coronavirus.house.gov>

July 29, 2020

The Honorable Brian P. Kemp
Governor of Georgia
206 Washington Street
Suite 203, State Capitol
Atlanta, GA 30334

Dear Governor Kemp:

I am writing regarding a report prepared for the White House Coronavirus Task Force warning that “Georgia is experiencing widespread community spread without evidence of improvement” and making recommendations to improve the state’s response to the pandemic. This unpublished report recommends far stronger public health measures than the White House has called for in public or than the state currently requires—including mandating face masks, closing bars and gyms, and strictly limiting gatherings. In light of the alarming surge of coronavirus cases and deaths in Georgia, I am troubled that the Administration would seek to keep public health recommendations secret rather than publicly communicating the importance of these measures to the American people and ensuring they are followed. I am writing to request information about the private guidance the Administration has provided to Georgia and whether you plan to implement those recommendations and take other critical actions to slow the spread of the coronavirus across the state.

A report disclosed yesterday by the New York Times indicates that the White House Task Force has privately called for states to take stronger steps to combat the pandemic, such as mandating face masks and social distancing.¹ At the same time, the Administration has made numerous public statements that contradict those recommendations and downplay the severity of the crisis. For example, on July 19, President Trump said that he would not consider instituting a national mask mandate, stating: “I want people to have a certain freedom” and “I don’t agree with the statement that if everybody wear[s] a mask, everything disappears.... and as you know, masks cause problems too.”² On July 21, President Trump asserted that “the virus will disappear” and said, “No governor needs anything right now” to address new outbreaks.³ On

¹ *Read the Latest Federal Report on States’ Response to the Virus*, New York Times (July 28, 2020) (online at www.nytimes.com/interactive/2020/07/28/us/states-report-virus-response-july-26.html).

² *Trump, Governors Diverge on Mask Mandates*, Politico (July 19, 2020) (online at www.politico.com/news/2020/07/19/trump-governors-masks-371304).

³ *The White House, Remarks by President Trump in Press Briefing* (July 21, 2020) (online at www.whitehouse.gov/briefings-statements/remarks-president-trump-press-briefing-072120/).

July 27, President Trump stated, “I really do believe that a lot of the governors should be opening up states that they’re not opening.”⁴

The report prepared for the Task Force, dated July 26, 2020, provides a dire assessment of the situation in Georgia, stating:

Georgia is in the red zone for cases, indicating more than 100 new cases per 100,000 population last week, and the red zone for test positivity, indicating a rate above 10%. Georgia has seen an increase in new cases and an increase in testing positivity over the past week. ... Georgia is experiencing widespread community spread without evidence of improvement. Improvement will require much more aggressive mitigation efforts to change the trajectory of the pandemic in Georgia.⁵

Although the Task Force has apparently provided Georgia with private suggestions concerning public health measures designed to stop the spread of the virus, the state has not implemented many of these recommendations—and instead appears to be following the contradictory public messaging coming from the Administration.

The Select Subcommittee’s review shows that Georgia does not appear to be following at least six different recommendations from the Task Force report:

Task Force Recommendation ⁶	Georgia’s Status
“Mandate use of masks in all current and evolving hot spots – optimally a statewide mandate.”	<u>Not in compliance</u> – Local jurisdictions are banned from requiring masks to be worn in public. Rather than requiring masks, your July 15 order and subsequent public statements have “strongly encouraged” people to wear face coverings when out in public or when it is not possible to socially distance inside. ⁷ On July 16, you filed a lawsuit against Atlanta government officials, including Mayor Keisha Lance Bottoms, to block the city from implementing a mask requirement. ⁸

⁴ Josh Lederman (@JoshNBCNews), *Twitter* (July 27, 2020) (online at twitter.com/JoshNBCNews/status/128783828042433313).

⁵ *Georgia State Report* (July 26, 2020) (online at www.nytimes.com/interactive/2020/07/28/us/states-report-virus-response-july-26.html).

⁶ *Id.*

⁷ State of Georgia, *Executive Order* (July 15, 2020) (online at gov.georgia.gov/document/2020-executive-order/07152001/download); Office of the Governor of the State of Georgia, *Press Release: Governor Kemp Calls on Georgians to Do “Four Things for Four Weeks” to Stop COVID-19* (July 21, 2020) (online at gov.georgia.gov/press-releases/2020-07-21/governor-kemp-calls-georgians-do-four-things-four-weeks-stop-covid-19).

⁸ *Georgia Gov. Brian Kemp Sues Atlanta over Mask Requirement as Coronavirus Surges in the State*, Washington Post (July 16, 2020) (online at www.washingtonpost.com/nation/2020/07/16/kemp-georgia-mask-mandates/).

Task Force Recommendation⁶	Georgia’s Status
“Move to outdoor dining and limit indoor dining to less than 25% occupancy.”	<u>Not in compliance</u> – Restaurants are permitted to operate indoor dining at full capacity. ⁹ On July 16, you filed a lawsuit against Atlanta government officials to block the city from implementing an order for restaurants to close indoor dining rooms. ¹⁰
For counties in the red or yellow zone, “[e]nsure that all business retailers and personal services require masks and can safely social distance[.]”	<u>Not in compliance</u> – Businesses, including retailers and service providers, are not required to ensure workers or patrons wear masks or social distance. Instead, your July 15 order states that businesses “should implement” certain measures “if practicable,” such as providing personal protective equipment and increasing physical space between individuals’ worksites. ¹¹
“Close establishments where social distancing and mask use cannot occur, such as bars[.]”	<u>Not in compliance</u> – Bars are permitted to operate with certain restrictions, including limiting the number of people inside the bar to 50 people or 35% of the total listed fire capacity occupancy of the entire bar, whichever is greater, and increasing physical space between workers and patrons. ¹²
For counties in the red zone, “[c]lose ... gyms[.]” For counties in the yellow zone, “[l]imit gyms to 25% occupancy.”	<u>Not in compliance</u> – Gyms are permitted to operate with certain restrictions, including limiting occupancy and restricting use of particular machines to enforce social distancing requirements. ¹³
“[L]imit social gatherings to fewer than 10 people[.]”	<u>Not in compliance</u> – Social gatherings of up to 50 people are permitted without any social distancing. Gatherings of more than 50 people are permitted “if their grouping is transitory or incidental” or if the people are socially distanced. ¹⁴

The Task Force report privately recommended that Georgia implement these health measures to help reverse the dangerous spike in cases across the state and to prevent unnecessary deaths. Failure to comply is allowing the virus to spread, prolonging and exacerbating the public health crisis facing the state. I urge you to act quickly and mandate science-based public health measures.

⁹ State of Georgia, *Executive Order* (July 15, 2020) (online at gov.georgia.gov/document/2020-executive-order/07152001/download).

¹⁰ *Georgia Gov. Brian Kemp Sues Atlanta over Mask Requirement as Coronavirus Surges in the State*, Washington Post (July 16, 2020) (online at www.washingtonpost.com/nation/2020/07/16/kemp-georgia-mask-mandates/).

¹¹ State of Georgia, *Executive Order* (July 15, 2020) (online at gov.georgia.gov/document/2020-executive-order/07152001/download).

¹² *Id.*

¹³ *Id.*

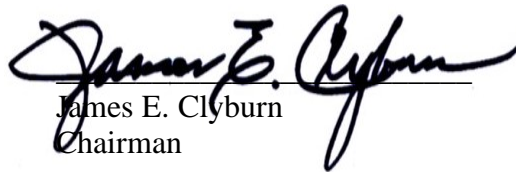
¹⁴ *Id.*

For all these reasons, I request that you produce the following documents and information to the Select Subcommittee by August 12, 2020. These requests are consistent with House Resolution 935, which established the Select Subcommittee on the Coronavirus Crisis “to conduct a full and complete investigation” of “issues related to the coronavirus crisis,” including the “preparedness for and response to the coronavirus crisis.”

1. All documents or communications regarding formal or informal guidance and public health recommendations provided by the White House Task Force to stop the spread of the coronavirus in Georgia;
2. A detailed description of any decisions made or public health measures that were implemented or rescinded in Georgia as a result of any communications or guidance referenced in Request 1; and
3. A detailed description of your current plans to implement additional public health measures to control the spread of the coronavirus.

An attachment to this letter provides additional instructions for responding to the Select Subcommittee’s request. If you have any questions regarding this request, please contact Select Subcommittee staff at (202) 225-4400.

Sincerely,



James E. Clyburn
Chairman

Enclosure

cc: The Honorable Steve Scalise, Ranking Member

Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.