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SELECT SUBCOMMITTEE ON THE CORONAVIRUS CRISIS  
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<https://coronavirus.house.gov>

July 29, 2020

The Honorable Bill Lee  
Governor of Tennessee  
Tennessee State Capitol, 1st Floor  
600 Dr. Martin L. King, Jr. Boulevard  
Nashville, TN 37243

Dear Governor Lee:

I am writing regarding a report prepared for the White House Coronavirus Task Force warning that “Tennessee is in the red zone for cases ... and the red zone for test positivity” 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 This unpublished report recommends far stronger public health measures than the White House has called for in public or than the state currently requires—including mandating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 Tennessee, I am troubled that the Trump 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 Tennessee 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.<sup>1</sup> 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.”<sup>2</sup> On July 21, President Trump asserted that “the virus will disappear” and said, “No governor needs anything right now” to address new outbreaks.<sup>3</sup> On

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<sup>1</sup> *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](http://www.nytimes.com/interactive/2020/07/28/us/states-report-virus-response-july-26.html)).

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

<sup>3</sup> *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/](http://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.”<sup>4</sup>

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

Tennessee 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%. Tennessee has seen stability in new cases and an increase in testing positivity over the past week. ... More counties and CBSAs [core-based statistical areas] are in the hot zone this week.<sup>5</sup>

Dr. Deborah Birx, the Administration’s Coronavirus Response Coordinator, echoed these concerns to you and to other state and local officials during a private meeting on July 27. After the meeting, Dr. Birx warned that “Tennessee is at [an] inflection point” and needs to take immediate and aggressive action to “change the trajectory of the epidemic.” Dr. Birx noted:

We’ve done a lot of modeling and we have found that if you all wear a mask—all Tennesseans—in every public area and you stop going to bars, and in fact close the bars, and limit your indoor dining, that we can have as big of an impact on decreasing new cases as we had with sheltering in place.

Dr. Birx indicated that such measures recently have proven effective at slowing the spread in other states.<sup>6</sup>

Although the Task Force has apparently provided Tennessee 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.

You made clear on July 27 that you have no plans to roll back the state’s reopening or impose a statewide mask requirement.<sup>7</sup> The Select Subcommittee’s review shows that Tennessee does not appear to be following at least five different recommendations from the Task Force report while partially complying with another:

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<sup>4</sup> Josh Lederman (@JoshNBCNews), Twitter (July 27, 2020) (online at [twitter.com/JoshNBCNews/status/128783828042433313](https://twitter.com/JoshNBCNews/status/128783828042433313)).

<sup>5</sup> *Tennessee State Report* (July 26, 2020) (online at [int.nyt.com/data/documenttools/states-report-virus-response-july-26/e241189157b34378/full.pdf](https://int.nyt.com/data/documenttools/states-report-virus-response-july-26/e241189157b34378/full.pdf)).

<sup>6</sup> *White House Is Recommending Tennessee Close All Bars. Gov. Bill Lee Says No*, Nashville Tennessean (July 27, 2020) (online at [www.tennessean.com/story/news/local/coronavirus/2020/07/27/dr-deborah-birx-white-house-recommendation-tennessee-bars-restaurants/5515826002/](https://www.tennessean.com/story/news/local/coronavirus/2020/07/27/dr-deborah-birx-white-house-recommendation-tennessee-bars-restaurants/5515826002/)); *Tennessee Governor Rejects Coronavirus Task Force Advice to Close Bars, Mandate Masks*, CBS News (July 28, 2020) (online at [www.cbsnews.com/news/tennessee-governor-rejects-coronavirus-task-force-advice-to-close-bars-mandate-masks-at-covid-inflection-point/](https://www.cbsnews.com/news/tennessee-governor-rejects-coronavirus-task-force-advice-to-close-bars-mandate-masks-at-covid-inflection-point/)).

<sup>7</sup> *Id.*

<b>Task Force Recommendation<sup>8</sup></b>	<b>Tennessee’s Status</b>
“Statewide mask mandate is critical to stop the spread.”	<b><u>Not in compliance</u></b> – On July 27, you indicated that you have no plans to impose a statewide mask requirement. Face coverings are not currently required in all current and evolving hot spots, such as Bradley, Maury, and Putnam counties. <sup>9</sup>
For counties in red zones, “[c]lose ... gyms.” For counties in yellow zones, “[l]imit gyms to 25% capacity.”	<b><u>Not in compliance</u></b> – Gyms are permitted to operate with certain restrictions statewide, including “[l]imit[ing] facility occupancy to the number of customers necessary to accommodate social distancing of at least 6 feet between persons” and “[o]nly allow[ing] group fitness classes if classes can be completed in accordance with social distancing recommendations[.]” <sup>10</sup>
“In red and yellow zones, ... limiting indoor dining at restaurants to 25% capacity is critical to disrupt transmission.”	<b><u>Not in compliance</u></b> – Restaurants are permitted to operate indoor dining with no restrictions in most counties, leaving it to local jurisdictions to determine whether to enact social distancing and occupancy restrictions. Tennessee’s state guidance “recommends” that restaurants practice social distancing, including “limit[ing] tables to no more than 10 guests per table,” spacing tables “at least 6 feet apart,” and “us[ing] outdoor waiting area or page customers in order to minimize congregation.” <sup>11</sup>
For counties in red zones, “[l]imit social gatherings to 10 people or fewer.” For counties in yellow zones, “[l]imit social gatherings to 25 people or fewer.”	<b><u>Not in compliance</u></b> – Social gatherings of up to 50 people are permitted without any social distancing. Gatherings of more than 50 people are permitted if the people are socially distanced. These restrictions do not apply to houses of worship, weddings, and funerals. <sup>12</sup>

<sup>8</sup> *Tennessee State Report* (July 26, 2020) (online at [int.nyt.com/data/documenttools/states-report-virus-response-july-26/e241189157b34378/full.pdf](https://int.nyt.com/data/documenttools/states-report-virus-response-july-26/e241189157b34378/full.pdf)).

<sup>9</sup> *Tennessee Governor Rejects Coronavirus Task Force Advice to Close Bars, Mandate Masks*, CBS News (July 28, 2020) (online at [www.cbsnews.com/news/tennessee-governor-rejects-coronavirus-task-force-advice-to-close-bars-mandate-masks-at-covid-inflection-point/](https://www.cbsnews.com/news/tennessee-governor-rejects-coronavirus-task-force-advice-to-close-bars-mandate-masks-at-covid-inflection-point/)); *Bradley County Mayor Not Considering Mask Mandate But Encourages Public to Wear Them*, WRCB (July 27, 2020) (online at [www.wrcbtv.com/story/42419105/bradley-county-mayor-not-considering-mask-mandate-but-encourages-public-to-wear-them/](https://www.wrcbtv.com/story/42419105/bradley-county-mayor-not-considering-mask-mandate-but-encourages-public-to-wear-them/)); *Here’s Where Masks Are Mandated In Middle Tennessee*, WPLN Nashville Public Radio (July 20, 2020) (online at [wpln.org/post/heres-where-masks-are-mandated-in-middle-tennessee/](https://wpln.org/post/heres-where-masks-are-mandated-in-middle-tennessee/)).

<sup>10</sup> Office of the Governor, *Exercise Facilities Guidelines* (online at [www.tn.gov/governor/covid-19/economic-recovery/exercise-facilities-guidelines.html](https://www.tn.gov/governor/covid-19/economic-recovery/exercise-facilities-guidelines.html)).

<sup>11</sup> Office of the Governor, *Restaurant Guidelines* (online at [www.tn.gov/governor/covid-19/economic-recovery/restaurant-guidelines.html](https://www.tn.gov/governor/covid-19/economic-recovery/restaurant-guidelines.html)); Office of the Governor, *Economic Recovery Group to Lift Capacity Restrictions on Restaurants and Retail, Allow for Large Attractions to Open* (May 15, 2020) (online at [www.tn.gov/governor/news/2020/5/15/economic-recovery-group-to-lift-capacity-restrictions-on-restaurants-and-retail--allow-for-large-attractions-to-open.html](https://www.tn.gov/governor/news/2020/5/15/economic-recovery-group-to-lift-capacity-restrictions-on-restaurants-and-retail--allow-for-large-attractions-to-open.html)).

<sup>12</sup> Office of the Governor, *Press Release: Gov. Lee Extends State of Emergency to Aug. 29, 2020* (June 29, 2020) (online at [www.tn.gov/governor/news/2020/6/29/gov--lee-extends-state-of-emergency-to-aug--29--2020.html](https://www.tn.gov/governor/news/2020/6/29/gov--lee-extends-state-of-emergency-to-aug--29--2020.html)).

Task Force Recommendation <sup>8</sup>	Tennessee’s Status
For counties in the red and yellow zones, “[e]nsure that all business retailers and personal services require masks and can safely social distance[.]”	<b><u>Not in compliance</u></b> – Businesses, including retailers and service providers, are not required to ensure workers or patrons wear masks or social distance—including in hot-spot counties—leaving it to local jurisdictions to decide whether to impose such restrictions. Tennessee’s state guidance merely encourages workers and customers to wear face masks and to take steps to encourage social distancing. <sup>13</sup>
“In red and yellow zones, closing bars ... is critical to disrupt transmission.”	<b><u>Partial compliance</u></b> – On July 27, you indicated that you have no plans to shut down bars, stating: “Beyond the regions that currently have restrictions, that’s not a plan for us now. ... [W]e are not going to close the economy back down[.]” <sup>14</sup>

The Task Force report privately recommended that Tennessee 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.

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 Tennessee.
2. A detailed description of any decisions made or public health measures that were implemented or rescinded in Tennessee as a result of any communications or guidance referenced in Request 1.
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.

<sup>13</sup> Office of the Governor, *Retail Guidelines* (online at [www.tn.gov/governor/covid-19/economic-recovery/retail-guidelines.html](http://www.tn.gov/governor/covid-19/economic-recovery/retail-guidelines.html)); Office of the Governor, *Close Contact Business Guidelines* (online at [www.tn.gov/governor/covid-19/economic-recovery/close-contact-business-guidelines.html](http://www.tn.gov/governor/covid-19/economic-recovery/close-contact-business-guidelines.html)).

<sup>14</sup> *White House Is Recommending Tennessee Close All Bars. Gov. Bill Lee Says No*, Nashville Tennessean (July 27, 2020) (online at [www.tennessean.com/story/news/local/coronavirus/2020/07/27/dr-deborah-birx-white-house-recommendation-tennessee-bars-restaurants/5515826002/](http://www.tennessean.com/story/news/local/coronavirus/2020/07/27/dr-deborah-birx-white-house-recommendation-tennessee-bars-restaurants/5515826002/)).

The Honorable Bill Lee  
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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.