



August 20, 2020

To Whom It May Concern:

Pursuant to the New York Freedom of Information Law, I hereby request an opportunity to inspect or obtain copies of public records on my own behalf as a journalist and as an academic researcher.

Requested Records

Part 1: Twitter, @HealthNYGov

I request all agency records from March 2010 to the present concerning Tweets deleted or drafted and not sent from the @HealthNYGov account associated with the New York State Health Department. I believe the records that I am located, *inter alia*, within agency headquarters, in email records, and in third-party platforms used to manage the Agency's social media accounts.

The records I request include, but are not limited to:

1. Records of all tweets deleted by the Twitter handle associated with the New York State Health Department (@HealthNYGov), including:
  - a. Any tweets that were published on Twitter and subsequently deleted for any reason; and
  - b. Any tweets published by other accounts that were retweeted by @HealthNYGov and subsequently deleted for any reason.
2. Records of all tweets that have been kept in draft form beyond their expected date and time of publication, on Twitter or in a third-party social media management platform, for any reason.
3. Records related to the drafting or deletion of tweets, including:
  - a. Any correspondence or record of correspondence regarding the drafting or deletion of specific tweets
    - i. including correspondence sent through official government email addresses or messaging services; and
    - ii. including correspondence sent through private third-party services such as Gmail or Slack; and
    - iii. Including any messages, notes, or annotations created on a third-party social media management platform.
  - b. Documentation of the agency's existing policy regarding the preservation and maintenance of tweets
  - c. Any briefings, reports, memoranda, legal opinions, policy statements, or talking points used or disseminated within the Agency regarding the drafting or deletion of tweets.

Part II: Facebook, New York State Health Department (@NYSDOH)

I request all agency records from **March 18, 2010** to the present concerning Facebook posts deleted or drafted and not sent from the New York State Health Department account associated with the New York State Health Department. I believe the records that I am located, *inter alia*, within agency headquarters, in email records, and in third-party platforms used to manage the Agency's social media accounts.

The records I request include, but are not limited to:

1. Records of all posts deleted by the Facebook handle (@NYSDOH) associated with the New York State Health Department, including:
  - a. Any Facebook posts that were published on Facebook and subsequently deleted for any reason; and
  - b. Any Facebook posts published by other accounts that were reposted by the New York State Health Department's official account (@NYSDOH) and subsequently deleted for any reason.
2. Records of all Facebook posts that have been kept in draft form beyond their expected date and time of publication, on Facebook or in a third-party social media management platform, for any reason.
3. Records related to the drafting or deletion of Facebook posts, including:
  - a. Any correspondence or record of correspondence regarding the drafting or deletion of specific Facebook posts
    - i. including correspondence sent through official government email addresses or messaging services; and
    - ii. including correspondence sent through private third-party services such as Gmail or Slack; and
    - iii. Including any messages, notes, or annotations created on a third-party social media management platform.
  - b. Documentation of the agency's existing policy regarding the preservation and maintenance of Facebook posts
  - c. Any briefings, reports, memoranda, legal opinions, policy statements, or talking points used or disseminated within the Agency regarding the drafting or deletion of Facebook posts

### **Part III: YouTube, New York State Health Department**

I request all agency records from the date of the creation of the New York State Health Department's YouTube account to the present concerning YouTube posts deleted or drafted and not sent from YouTube account associated with the New York State Health Department. I believe the records that I am located, *inter alia*, within agency headquarters, in email records, and in third-party platforms used to manage the Agency's social media accounts.

The records I request include, but are not limited to:

1. Records of all posts deleted by the YouTube handle associated with the New York State Health Department including:
  - a. Any YouTube posts that were published and subsequently deleted for any reason; and
  - b. Any YouTube posts published by other accounts that were reposted by New York State Health Department and subsequently deleted for any reason.
2. Records of all YouTube posts that have been kept in draft form beyond their expected date and time of publication, on YouTube or in a third-party social media management platform, for any reason.
3. Records related to the drafting or deletion of YouTube posts, including:
  - a. Any correspondence or record of correspondence regarding the drafting or deletion of specific YouTube posts
    - i. including correspondence sent through official government email addresses or messaging services; and
    - ii. including correspondence sent through private third-party services such as Gmail or Slack; and
    - iii. Including any messages, notes, or annotations created on a third-party social media management platform.
  - b. Documentation of the agency's existing policy regarding the preservation and maintenance of YouTube posts
  - c. Any briefings, reports, memoranda, legal opinions, policy statements, or talking points used or disseminated within the Agency regarding the drafting or deletion of YouTube posts

#### **Part IV: Pinterest, NYSDOH**

I request all agency records from the date of the creation of the NYSDOH Pinterest account to the present concerning Pinterest posts deleted or drafted and not sent from the NYSDOH account associated with the New York Department of Health. I believe the records that I am located, *inter alia*, within agency headquarters, in email records, and in third-party platforms used to manage the Agency's social media accounts.

The records I request include, but are not limited to:

1. Records of all posts deleted by the Pinterest handle associated with the Louisiana Department of Health's Pinterest account (NYSDOH), including:
  - a. Any Pinterest posts that were published on Pinterest and subsequently deleted for any reason; and
  - b. Any Pinterest posts published by other accounts that were reposted by @NYSDOH and subsequently deleted for any reason.
2. Records of all Pinterest posts that have been kept in draft form beyond their expected date and time of publication, on Pinterest or in a third-party social media management platform, for any reason.
3. Records related to the drafting or deletion of Pinterest posts, including:
  - a. Any correspondence or record of correspondence regarding the drafting or deletion of specific Pinterest posts

- i. including correspondence sent through official government email addresses or messaging services; and
  - ii. including correspondence sent through private third-party services such as Gmail or Slack; and
  - iii. Including any messages, notes, or annotations created on a third-party social media management platform.
- b. Documentation of the agency's existing policy regarding the preservation and maintenance of Pinterest posts
- c. Any briefings, reports, memoranda, legal opinions, policy statements, or talking points used or disseminated within the Agency regarding the drafting or deletion of Pinterest posts

### Request for Public Interest Fee Waiver

I request a waiver of fees because disclosure of the requested records is in the public interest. It is likely to contribute significantly to the public understanding of the activities or operations of the government and is not primarily in the commercial interest of the requester.

First, the records concern the operations or activities of the government. Government social media accounts are used to disseminate information to the public, make official pronouncements, and generally serve as an important touch point for governments to receive public input. *See Social Media Use by Governments: A Policy Primer to Discuss Trends, Identify Policy Opportunities and Guide Decision Makers*, OECD Working Papers on Public Governance, available at <https://dx.doi.org/10.1787/5jxrcmghmk0s-en>. Social media use, including tweets posted by @NMDOH and then deleted, or never posted, is an important part of this activity.

Disclosure of the requested information is likely to contribute significantly to public understanding of the operations or activities of the government. Specifically, the requested records will reveal substantial new information about how the New York State Health Department defines and manages tweets. They will allow the public to see what published messages have been rescinded and the process by which these public statements were retracted as compared to the processes employed by other agencies. For example, my research on the Twitter account of the Guantanamo Bay Naval Base revealed to the public that the account had systematically deleted controversial tweets. *See Brady Dale, To What Extent is a Tweet a Federal Record?*, TECHNICAL.LY BROOKLYN (October 24, 2017), (<https://technical.ly/brooklyn/2017/10/24/muira-mccammon-talks-gitmo-radical-networks/>).

Finally, the records are not primarily in my own commercial interest. I seek the requested information for newsgathering purposes, and expect to incorporate it into journalistic work product to be disseminated to the public, like those already produced. *See Muira Mccammon, Trouble @JTFGTMO*, SLATE (April 17, 2018), <https://slate.com/technology/2018/04/why-did-the-joint-task-force-of-guantanamo-start-deleting-tweets.html>; Muira Mccammon, *Can They Really Delete That?*, SLATE (April 17, 2018), <https://slate.com/technology/2018/04/can-federal-agencies-really-just-delete-tweets.html>.



For the reasons above, I respectfully request that the agency grant a public interest fee waiver for this request, and that all fees related to the search, review, and duplication of the requested records be waived. If the fees will not be waived, I agree to pay up to \$10 for the processing of this request. If the estimated fees will exceed this limit, please inform me before you begin processing.

#### Request for “News Media” Fee Status

As a freelance journalist, I am a representative of the news media and do not seek the records requested for commercial use. Therefore, if the agency does not find that my request meets the standards required for a public interest fee waiver, I request that fees associated with the processing of my request be limited to reasonable duplication costs. I am a representative of the news media because I gather information of potential interest to a segment of the public, use [my] editorial skills to turn the raw materials into a distinct work, and distribute that work to an audience. I can also demonstrate a solid basis for expecting publication by my past publication record.

My work has been featured in publications including Slate, VICE, the Massachusetts Review, Kill Screen, and more. I have previously requested documents obtained via FOIA from a range of federal agencies and government officials regarding the deletion of tweets from official Twitter accounts. I used that information to write a series of articles outlining both how individual agencies decided whether or not to delete tweets and more broadly how the government regards Twitter statements. These articles have been published, disseminated, and further reported upon to a broad audience. See Muira Mccammon, *Trouble @JTFGTMO*, SLATE (April 17, 2018), <https://slate.com/technology/2018/04/why-did-the-joint-task-force-of-guantanamo-start-deleting-tweets.html>; Muira Mccammon, *Can They Really Delete That?*, SLATE (April 17, 2018), <https://slate.com/technology/2018/04/can-federal-agencies-really-just-delete-tweets.html>.

Therefore, if this request is not classified as being in the public interest, I respectfully request to be classified as a “news media” requester for purposes of fee assessments.

#### Request for “Educational Requester” Fee Status

In addition to writing as a journalist, I am also a Ph.D. candidate at the University of Pennsylvania’s Annenberg School and a Master’s in Law candidate at the University of Pennsylvania Law School. I am writing my dissertation, in part, on communication and deletion practices of U.S. government agencies. This research has, to date, been presented at the International Communication of Association’s annual conferences in Prague (2018) and Washington D.C. (2019)—in addition to many other more local conferences. If I had said this before to you, would that have helped (with regards to the ‘education’ category). I have also been granted over 350 emails and 36 records of deleted tweets from other government agencies in sum to date. My research is specifically focused on US government policy and practice regarding the drafting and deletion of tweets. A search for “any” deleted tweets is neither random nor unreasonable, but a precise description of the records that I seek. A number of other agencies (aforementioned and other) with official Twitter accounts have successfully produced records of deleted tweets in response to similar requests by myself. This work is forthcoming in an article,



“Tweeted, Deleted: An Exploratory Study of the U.S. Government’s Digital Memory Holes” that will be printed this summer in *New Media & Society*.

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I request that responsive electronic records be provided electronically in their native file format, if possible. If there are any fees for searching or copying these records, please inform me if the cost will exceed \$10. However, as I mentioned above, I would also like to request a waiver of all fees in this disclosure.

The statute requires a response in a reasonable time period; I look forward to receiving your response. Please contact me with information about when I might expect copies or the ability to inspect the requested records. Thank you in advance for your anticipated cooperation in this matter.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.

In gratitude,

Muira McCammon

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