

H011657-052521 - FOIA Request

Message History (9)

✉ On 6/7/2021 3:14:18 PM, MDHHS FOIA Records Center wrote:

Subject: MDHHS FOIA Request :: H011657-052521

Body:

RE: Public Records Request, Reference # H011657-052521

Dear Freelance Journalist Miller,

This notice is issued in response to your request, legally received by the Michigan Department of Health and Human Services (Department) on May 26, 2021, requesting information under the Freedom of Information Act (FOIA), MCL 15.231 *et seq.*

Your request is granted. Please see the spreadsheet sent to your email for the responsive records. Spreadsheets can be difficult to read in GovQA so it was sent by email instead.

The Department has identified and included the responsive information falling within the scope of your request. To the best of the Department's knowledge, information, and belief, these are all the records in the possession of the Department falling within the scope of your request. There is no fee for the request as search and retrieval were minimal, falling below the Department's threshold for processing fees.

The Department's FOIA policies and procedures are available at [Policies and Procedures](#).

Sincerely,

Ruth O'Connor
Bureau of Legal Affairs

↩ On 6/6/2021 6:48:02 PM, Erin Miller wrote:

TO: "MDHHS FOIA Records Center"[michigandhhs@govqa.us]

Thank you. Please make sure to also include the email address gordonrobert@gmail.com in your search, in addition to the other email address I provided in my request, and any other email addresses associated with Mr. Gordon that the MDHHS or DTMB is aware of.

- Erin

On Thu, Jun 3, 2021 at 1:24 PM MDHHS FOIA Records Center wrote:

I'm still waiting to hear back from DTMB regarding results from the email search. I'll follow-up with you as soon as I hear back.

✉ On 6/4/2021 2:58:34 PM, MDHHS FOIA Records Center wrote:

Subject: Extension :: H011657-052521

Body:



RE: PUBLIC RECORDS REQUEST , Reference # H011657-052521

Dear Freelance Journalist Erin Miller,

This notice is issued in response to your request, legally received by the Michigan Department of Health and Human Services (Department) on May 26, 2021, requesting information under the Freedom of Information Act (FOIA), MCL 15.231 *et seq.*

In order to determine what responsive records the Department might have, it is necessary to extend the time for response permitted by MCL 15.235 §5(2)(d) until June 17, 2021.

The Department's FOIA policies and procedures are available at [Policies and Procedures](#).

Sincerely,

Bureau of Legal Affairs,

Michigan Department of Health and Human Services

✉ On 6/3/2021 1:23:35 PM, MDHHS FOIA Records Center wrote:

Subject: MDHHS FOIA Request :: H011657-052521

Body: I'm still waiting to hear back from DTMB regarding results from the email search. I'll follow-up with you as soon as I hear back.

↩ On 5/29/2021 10:30:21 AM, Erin Miller wrote:

TO: "MDHHS FOIA Records Center"[michigandhhs@govqa.us]

Hello,

I have already sent this response separately to Donald Bierer via email at the address MDHHS-FOIA@michigan.gov, and received a response from Ruth O'Connor, who is apparently also part of the legal affairs department, who told me she would look into this matter.

However, I wanted to also send a response here so that I can ensure my response to this denial is included in the public record, in the event that I need to contact an attorney about this matter, which seems likely given the circumstances.

I would like a prompt explanation as to why Mr. Bierer logged into the MDHHS FOIA system and denied this request after it had already been fully granted as to nonexempt records (see invoice number INV21-H011657-1 -- which appears to have been deleted from the system but should still be available in your records, if your FOIA records are being kept properly). If you no longer have a copy of this invoice, I will be happy to provide you with it.

In his denial, Mr. Bierer claimed that the agency does not have access to the requested records. However, because I have seen Robert Gordon's emails in the records of previously completed FOIA requests on the MDHHS "My Records Center" website (which were obviously processed by MDHHS), I am highly confident that the MDHHS does, in fact, have access to the requested records.

See MDHHS FOIA request H010401-030421, dated 3/5/2021. See file "JudicialWatch10401.zip", which you can view/download here to confirm the aforementioned facts:
[https://michigandhhs.govqa.us/WEBAPP/_rs/\(S\(dwqlxhsev4mhb5lqb0ncivdp\)\)/RequestArchiveDetails.aspx?rid=10401](https://michigandhhs.govqa.us/WEBAPP/_rs/(S(dwqlxhsev4mhb5lqb0ncivdp))/RequestArchiveDetails.aspx?rid=10401)

I was also quoted a fee of \$4,150.13 for a search of similar information to that requested in this FOIA request (but also including actual documents and not just a list of email addresses and names) under an invoice for MDHHS FOIA request H011656-052521. That request was also fully granted as to nonexempt records. That fee and invoice (which was fully granted as to nonexempt records and did not indicate a lack of access to Mr. Gordon's emails), coupled with the emails included in the aforementioned completed FOIA request, would seem to indicate that your agency does, in fact, have access to the requested records.

Please explain promptly.

Best,
Erin Marie Miller
1+734.519.1589

Portfolio | LinkedIn

On Thu, May 27, 2021 at 2:57 PM MDHHS FOIA Records Center wrote:

RE: AMENDED NOTICE Public Records Request, Reference # H011657-052521.

Dear Freelance Journalist Miller,

This amended notice is issued in response to your request, legally received by the Michigan Department of Health and Human Services (Department) on May 26, 2021, requesting information under the Freedom of Information Act (FOIA), MCL 15.231 et seq. Your request is denied.

To the best of the Department's knowledge, information, and belief, this Department does not possess or maintain records under the description you provided or by other names reasonably known to the Department. Per MCL 15.233 Sec. 3(4) the Department is not required to make a compilation or report of information or per MCL 15.233 Sec. 3(5) create a new public record to fulfil FOIA requests.

As to the denial, the Department is obligated to inform you that under MCL 15.240 §10 the following remedies are available:

1. Appeal this decision in writing to the Legal Affairs Administration of the Department of Health and Human Services, PO Box 30195, Lansing, MI 48909. The writing must specifically state the word "appeal" and must identify the reason or reasons you believe the denial should be reversed. The Department must respond to your appeal within ten days of receipt. Under unusual circumstances, the time for response to your appeal may be extended by ten business days.
2. File an action in the appropriate court within 180 days after the date of the final determination to deny the request. If you prevail in such an action, the court is to award reasonable attorney fees, costs, disbursements, and possible damages.

The Department's FOIA policies and procedures are available at [Policies and Procedures](#).

Sincerely, Donald Bierer
Bureau of Legal Affairs

✉ On 5/27/2021 2:56:47 PM, MDHHS FOIA Records Center wrote:

Subject: MDHHS FOIA Request :: H011657-052521

Body:

RE: AMENDED NOTICE Public Records Request, Reference # H011657-052521.

Dear Freelance Journalist Miller,

This amended notice is issued in response to your request, legally received by the Michigan Department of Health and Human Services (Department) on May 26, 2021, requesting information under the Freedom of Information Act (FOIA), MCL 15.231 *et seq.*

Your request is denied.

To the best of the Department's knowledge, information, and belief, this Department does not possess or maintain records under the description you provided or by other names reasonably known to the Department. Per MCL 15.233 Sec. 3(4) the Department is not required to make a compilation or report of information or per MCL 15.233 Sec. 3(5) create a new public record to fulfil FOIA requests.

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2. File an action in the appropriate court within 180 days after the date of the final determination to deny the request. If you prevail in such an action, the court is to award reasonable attorney fees, costs, disbursements, and possible damages.

The Department's FOIA policies and procedures are available at [Policies and Procedures](#).

Sincerely,

Donald Bierer
Bureau of Legal Affairs

✉ On 5/26/2021 8:48:49 AM, MDHHS FOIA Records Center wrote:

Subject: MDHHS FOIA Request :: H011657-052521

Body: RE: Public Records Request, Reference # H011657-052521

Dear Freelance Journalist Miller,

This notice is issued in response to your request, legally received by the Michigan Department of Health and Human Services (Department) on May 26, 2021, requesting information under the Freedom of Information Act (FOIA), MCL 15.231 et seq.

Your request is granted as to existing nonexempt records.

The Department has estimated the cost for searching, retrieval, and review of the requested records and separation of exempt and nonexempt information. The estimated cost of your FOIA request as well as the required deposit is stated in the invoice located in the [MDHHS Public Records Center](#), where you may pay your invoice and deposit online. Upon payment of the deposit the Department will process your request. The required deposit must be received within 48 days from the date of this communication; otherwise, your request will be considered abandoned.

The Department's best effort estimate for time to complete your request is thirty business days from the date the deposit is received. Once your FOIA request has been processed the Department will send you a final invoice, which may be more or less than the estimate. Payment must be received in full before records will be provided.

The Department's FOIA policies and procedures are available at [Policies and Procedures](#).

Sincerely,

Bureau of Legal Affairs

✉ On 5/26/2021 8:04:25 AM, MDHHS FOIA Records Center wrote:

Subject: Confirmation of FOIA Request:: H011657-052521

Body:



Dear Freelance Journalist Miller,

Thank you for your interest in public records of the Michigan Department of Health and Human Services (hereinafter “Department”).

Records Requested: To Whom It May Concern:

Under the Freedom of Information Act, I request that the following documents and information be provided to me:

- The names and email address of all CDC and HHS contacts that MDHHS Director Robert Gordon sent emails to between the dates of 11/1/2019 and 1/22/2021.

Although I am unsure of all of Mr. Gordon’s email addresses, you might want to start the search with GordonR3@michigan.gov.

There are probably other email address associated with Mr. Gordon, so it would be ideal for you to reach out to the MDHHS director's office staff to confirm all of the email addresses he used in the past year prior to conducting the records search.

When searching for emails to the CDC and/or HHS, it would be a good idea to start with domains that include cdc.gov and hhs.gov. There may be other domains associated with the email addresses of these agencies, so you should contact the CDC and HHS about this possibility prior to conducting your search.

In order to help determine my status to assess fees, you should know that I am a freelance journalist whose work has been published by print and digital news outlets and magazines in Michigan and in other states. You can view my portfolio at www.erinmariemiller.com/journalism.

Disclosure of the requested information to me 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 my commercial interest.

Because this request is being made as part of a news-gathering effort with a high likelihood of publication, I request a waiver of all fees.^[1]_[SEP]

If a fee waiver is not granted, I am willing to pay up to \$25 for the requested information. If the fee for this request exceeds this amount, please notify me in writing prior to completing the request.

Please feel free to contact me directly with any additional questions.

Your request has been assigned the following tracking number: H011657-052521. Your request has a legally received date of May 26, 2021. You will receive a response by the Department by June 03, 2021.

Unfortunately, we are unable to expedite requests and the time permitted for response by the Department may be extended beyond June 03, 2021 by ten (10) business days.


In accordance with the Michigan Freedom of Information Act (FOIA), MCL 15.231 *et seq*, the Department provides copies of existing non-exempt records. Records which are exempt from disclosure under state or federal law will not be provided, or records may be redacted to separate exempt information. The FOIA does not require the Department to create new records or answer queries.

You can monitor the progress of your request at the [MDHHS Public Records Center](#) and you will receive an email when your request has been completed.

Regards,

Bureau of Legal Affairs,

Michigan Department of Health and Human Services

 On 5/25/2021 4:33:23 PM, Erin Miller wrote:

Request Created on Public Portal