


Exhibit A

 New Civil Liberties Alliance

March 11, 2022

Brandon Gaylord
Freedom of Information Act Officer
Hubert H. Humphrey Building
200 Independence Avenue, S.W., Suite 729H
Washington D.C. 20201

SUBMITTED VIA EMAIL ONLY
HHS_FOIA_Public_Liaison@hhs.gov

Dear Mr. Gaylord:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, the New Civil Liberties Alliance (NCLA) requests copies of certain records and documents of the Department of Health and Human Services (HHS) related to the Surgeon General's demand, made on March 3, 2022, that social media platforms turn over to the United States Government sources of COVID-19 "misinformation."

Specifically, NCLA is seeking email correspondence from July 1, 2021, up to the time such records and documents are turned over to NCLA. Put otherwise, the request is ongoing, and includes pertinent records and documents created after this letter is sent.

We request emails containing the following terms:

1. "misinformation" OR "disinformation" AND "Twitter" OR "social media";
2. "repeat offender/s";
3. "super-spreader/s";
4. "snake oil" AND "China" or "Chinese."

AND any emails containing the following names:

1. Michael P. Senger; Mike Senger; Mike P. Senger; Michael Senger; @michaelpsenger;
2. Daniel P. Kotzin; Daniel Kotzin; Daniel Perry Kotzin; D. P. Kotzin; D. Kotzin; @danielkotzin
3. Mark Changizi; @MarkChangizi

We are requesting all emails containing those terms from the following individuals:

NCLA

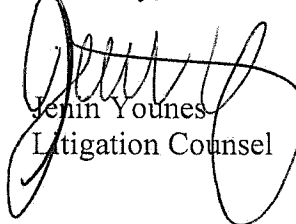
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1. Vivek Murthy, U.S. Surgeon General
2. Xavier Becerra, Secretary of HHS
3. Joan Hunter, Advisor to the U.S. Surgeon General
4. Andrea Joan Palm, Deputy Secretary, HHS
5. Timothy ("Tim") Ricks, Chief Dental Officer and Assistant Surgeon General
6. Max Lesko, Chief of Staff
7. Melea Atkins, Deputy Chief of Staff
8. Brandy Brunson, Executive Assistant to the U.S. Surgeon General
9. Jessica Scruggs, Senior Advisor and Director of Scheduling and Advance
10. Kana Enomoto, Senior Advisor
11. Arsenio Y. Mataka, Senior Advisor for Health Equity and Climate
12. Adam L. Beckman, Special Advisor
13. Daniel A. Tartakovsky, Policy Advisor
14. Tara Broido, Director of Communications
15. Eric W. Waldo, Director of Engagement
16. Jeremy Idol, Director of Mission Engagement

NCLA is a nonpartisan 501(c)(3) organization and in light of its status, NCLA requests a fee waiver. This request serves the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government. Moreover, this request is not in the commercial interest of the requestor. NCLA asks that these documents be sent via electronic mail and, if that is not possible, please contact me to arrange a different method of delivery. If a portion of the responsive records can be produced more readily, NCLA requests that they be produced first and the remainder produced on a rolling basis. In any event, and pursuant to 5 U.S.C. § 552(a)(6)(A)(i), please respond within 20 days.

If you have any questions about this request, please contact me by telephone at (202) 918-6905 or by email at jenin.younes@ncla.legal. Thank you for your prompt attention to this matter.

Sincerely,



Jenin Younes
Litigation Counsel

Exhibit B

Jenin Younes

From: Jenin Younes
Sent: Thursday, April 14, 2022 6:16 PM
To: HHS FOIA Public Liaison (OS/ASPA); OS FOIA Request (HHS/ASPA)
Cc: HHS FOIA Public Liaison (OS/ASPA)
Subject: Re: FOIA Request-requester profile created or edited Mar but no request in system
Attachments: FOIA Request_HHS March 11, 2022.pdf

Thank you for the response. I have attached the original response. Please let me know if you need anything more. Get [Outlook for iOS](#)

From: HHS FOIA Public Liaison (OS/ASPA) <HHS_FOIA_Public_Liaison@hhs.gov>
Sent: Thursday, April 14, 2022 6:10:32 PM
To: Jenin Younes <jenin.younes@ncla.legal>; OS FOIA Request (HHS/ASPA) <FOIARequest@hhs.gov>
Cc: HHS FOIA Public Liaison (OS/ASPA) <HHS_FOIA_Public_Liaison@hhs.gov>
Subject: RE: FOIA Request-requester profile created or edited Mar but no request in system

Ms. Younes,

I'm forwarding your below Apr 13 and Mar 11 emails to our Intake mailbox, FOIARequest@hhs.gov, so they can look into whether your March 11, 2022 request was received/routed/logged appropriately. Please provide a copy of your request, as there is no record of your March 11, 2022 email to the [HHS FOIA Public Liaison@hhs.gov](mailto:HHS_FOIA_Public_Liaison@hhs.gov) in that email mailbox. This could be due to a glitch with the email system – such problems are rare, but do happen.

Strangely, a requester profile was created under your name, in the Office of the Secretary ("OS") FOIA tracking system on March 10 2022, but no request appears under your name in that system. If your March 11, 2022 request was for records maintained by another part of HHS, it's possible it was routed to and logged into another HHS component's FOIA tracking system – just a guess.

I am sorry for any snafu, if there was one. If there has been a delay in logging in your request, rest assured it will be logged in as of the day received (March 11, 2022). Also, most HHS FOIA offices (including this one) have large backlogs, so for such a recent request it's highly likely the request wouldn't have been responded to yet if it was logged in the pertinent FOIA system on March 11.

Again, please provide a copy of your request so our Intake staff can look into it.

Thank you,

Beth Kramer
HHS/OS FOIA Public Liaison

From: Jenin Younes <jenin.younes@ncla.legal>
Sent: Wednesday, April 13, 2022 1:31 PM
To: HHS FOIA Public Liaison (OS/ASPA) <HHS_FOIA_Public_Liaison@hhs.gov>; OS FOIA Request (HHS/ASPA) <FOIARequest@hhs.gov>
Subject: RE: FOIA Request

I submitted this FOIA request on March 11, and have received no response. Please note that it is well past the 20 days within which I am entitled to some sort of response, at least an acknowledgment. I may be reached at this email, or at 202-918-6905. I expect to hear from you as soon as possible given that the 20-day deadline has long since passed.

Exhibit C



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

Refer to: Request Number **2022-00693-FOIA-OS**

April 15, 2022

Sent via email:

Jenin Younes

jenin.younes@ncla.legal

Dear Ms. Younes:

This acknowledges receipt of your April 14, 2022, Freedom of Information Act (FOIA) request, submitted to the Department of Health and Human Services (HHS), FOI/Privacy Acts Division concerning "... request copies of of certain records and documents of the Department of Health and Human Services (HHS) related to the Surgeon General's demand, made on March 3, 2022 ... (See Attach)". We received your request on April 15, 2022.

Because you seek records which require a search in another office, "unusual circumstances" apply to your request, automatically extending the time limit to respond to your request for ten additional days. See 5 U.S.C. 552 § (a)(6)(B)(i)-(iii) (2012 & Supp. V. 2017). Further, we estimate needing more than 10 additional days to respond to your request and so, in the next paragraph of this letter we are offering you an opportunity to narrow your request, in case narrowing the request would enable us to respond to the request sooner. The actual time needed to process your request will depend on the complexity of our records search and on the volume and complexity of any material located. For your information, this Office assigns incoming requests to one of three tracks: simple, complex, or expedited. Each request is then handled on a first-in, first-out basis in relation to other requests in the same track. Our current workload is approximately 3000 cases.

Your request is assigned to the complex track. In an effort to speed up our records search, you may wish to narrow the scope of your request to limit the number of potentially responsive records or agree to an alternative time frame for processing, should records be located. You may also wish to await the completion of our records search to discuss either of these options.

I regret the necessity of this delay, but I assure you that your request will be processed as soon as possible. If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, you may contact the analyst handling your request, Ruhma Sufian at Ruhma.Sufian@hhs.gov.

If you are not satisfied with any aspect of the processing and handling of this request, you have the right to seek dispute resolution services from:

HHS FOIA/PA Public Liaison
FOI/Privacy Acts Division
Assistant Secretary for Public Affairs (ASPA)
Office of the Secretary (OS)
U.S. Department of Health and Human Services (HHS)

Telephone: (202) 690-7453
E-mail: HHS_FOIA_Public_Liaison@hhs.gov

and/or:

Office of Government Information Services
National Archives and Records Administration
Telephone: 202- 741-5770
Toll-Free: 1-877-684-6448
E-mail: ogis@nara.gov

If you are not already submitting your requests through our Public Access Link (PAL), we recommend all future requests and appeals be submitted through PAL - <https://requests.publiclink.hhs.gov/>. Submitting requests through PAL automatically logs your requests into our tracking system and provides you with a tracking number. Your PAL account will allow you to track the progress of your request, receive your documents directly through the portal, and securely submit privacy-sensitive or business-sensitive documents.

Sincerely yours,



Arianne Perkins
Director, Initial FOIA Requests
FOI/Privacy Acts Division

Exhibit D



May 16, 2022

Brandon Gaylord
Freedom of Information Act Officer
Hubert H. Humphrey Building
200 Independence Avenue, S.W., Suite 729H
Washington, D.C. 20201

SUBMITTED VIA EMAIL ONLY

[HHS FOIA Public Liaison@hhs.gov](mailto:HHS_FOIA_Public_Liaison@hhs.gov)
foiarequest@hhs.gov

Re: Request No. 2022-00693-FOIA-OS

To Whom It May Concern:

I am writing in response to a letter sent to me via email on April 15, 2022, from Ms. Arianne Perkins, Director of Initial FOIA Requests. That letter constituted an acknowledgment of my FOIA request, assigned the above number, and explained that the request had been received on April 15 and that it was deemed “complex,” permitting additional time for compliance.

While the letter states that my request was made on April 14 and received on April 15, 2022, I had submitted the initial request much earlier, on March 11, 2022. I sent the request as an attachment to an email, at the address provided on the HHS website pertaining to FOIA requests (HHS_FOIA_Public_Liaison@hhs.gov) (as opposed to using the online portal). We will stipulate that the initial request should be designated as “misdirected” under the FOIA, which provides for an additional ten (10) days so that a request may be re-directed to the appropriate component of the agency. *See* 5 U.S.C. § 552(a)(6)(A)(ii). The initial date to comply under the misdirection provision would have been April 22, 2022.

We believe that the initial request is sufficiently narrow as to render the “complex” classification unwarranted. We provided specific search terms, identified particular individuals likely to be in possession of the records, offered the opportunity for rolling production, and have limited the records search to a period of less than a year. Thus, we do not intend to further narrow the request. However, even if we were to concede that the request is appropriately designated “complex,” and consenting to the additional 10 days requested, the operative date for compliance is Friday, May 20, 2022. Thus, we expect to receive the records on or by that date.

NCLA

Page 2 of 2

If you have any questions about this request, please contact me by telephone at (202) 918-6905 or by email at jenin.younes@ncla.legal. Thank you for your prompt attention to this matter.

Sincerely,

/s/ Jenin Younes

Jenin Younes
Litigation Counsel

Exhibit E

Jenin Younes

From: HHS FOIA Public Liaison (OS/ASPA) <HHS_FOIA_Public_Liaison@hhs.gov>
Sent: Thursday, May 19, 2022 7:59 PM
To: Jenin Younes
Cc: HHS FOIA Public Liaison (OS/ASPA); OS FOIA Request (HHS/ASPA)
Subject: FW: HHS Acknowledgement Email 2022-00693-FOIA-OS - possible to change receipt date from Apr 14 to Mar 11?
Attachments: FOIA Followup Letter_Final.pdf; Re: FOIA Request-requester profile created or edited Mar but no request in system

Mr. Younes,
My April 14 email to you explained that there was only a record of your profile created in our FOIA tracking system on March 11, with no copy of a request. You provided a copy of your request dated March 11 on April 14, so April 14 is the date of receipt that was recorded in the tracking system by the Intake Staff. I've cc'd the Intake mailbox to see if it's possible for them to change the request date in the system from April 14 to March 11. I've attached the April email string for their convenience of reference.

I'm sorry to tell you this, but due to a backlog of approximately 3,000 requests and a first-in/first-out policy, that one month is unlikely to affect the actual response date much, because it could be two years before your request is reached in the queue.

Thank you for making your request as narrow as you did – although you requested 16 email accounts to be searched and a lot of different combinations of search terms to be used, the various search terms seem sufficiently specific to result in a manageable amount of emails. Hopefully, that will be turn out to be the case.

Beth Kramer
HHS/OS FOIA Public Liaison

From: Jenin Younes <jenin.younes@ncla.legal>
Sent: Monday, May 16, 2022 11:42 AM
To: OS FOIA Request (HHS/ASPA) <FOIARequest@hhs.gov>; HHS FOIA Public Liaison (OS/ASPA) <HHS_FOIA_Public_Liaison@hhs.gov>
Subject: re: HHS Acknowledgement Email 2022-00693-FOIA-OS

To Whom It May Concern:

Please see the attached letter.

Jenin Younes

Exhibit F

Jenin Younes

From: OS FOIA Request (HHS/ASPA) <FOIARequest@hhs.gov>
Sent: Friday, May 20, 2022 9:48 AM
To: HHS FOIA Public Liaison (OS/ASPA); Jenin Younes
Subject: RE: HHS Acknowledgement Email 2022-00693-FOIA-OS - possible to change receipt date from Apr 14 to Mar 11?

Good Morning,

I can change the requested date in the system however as Ms. Kramer has stated below it is unlikely to affect the actual response date dramatically.

Thank you.

From: HHS FOIA Public Liaison (OS/ASPA) <HHS_FOIA_Public_Liaison@hhs.gov>
Sent: Thursday, May 19, 2022 7:59 PM
To: Jenin Younes <jenin.younes@ncla.legal>
Cc: HHS FOIA Public Liaison (OS/ASPA) <HHS_FOIA_Public_Liaison@hhs.gov>; OS FOIA Request (HHS/ASPA) <FOIARequest@hhs.gov>
Subject: FW: HHS Acknowledgement Email 2022-00693-FOIA-OS - possible to change receipt date from Apr 14 to Mar 11?

Mr. Younes,

My April 14 email to you explained that there was only a record of your profile created in our FOIA tracking system on March 11, with no copy of a request. You provided a copy of your request dated March 11 on April 14, so April 14 is the date of receipt that was recorded in the tracking system by the Intake Staff. I've cc'd the Intake mailbox to see if it's possible for them to change the request date in the system from April 14 to March 11. I've attached the April email string for their convenience of reference.

I'm sorry to tell you this, but due to a backlog of approximately 3,000 requests and a first-in/first-out policy, that one month is unlikely to affect the actual response date much, because it could be two years before your request is reached in the queue.

Thank you for making your request as narrow as you did – although you requested 16 email accounts to be searched and a lot of different combinations of search terms to be used, the various search terms seem sufficiently specific to result in a manageable amount of emails. Hopefully, that will be turn out to be the case.

Beth Kramer
HHS/OS FOIA Public Liaison

From: Jenin Younes <jenin.younes@ncla.legal>
Sent: Monday, May 16, 2022 11:42 AM
To: OS FOIA Request (HHS/ASPA) <FOIARequest@hhs.gov>; HHS FOIA Public Liaison (OS/ASPA) <HHS_FOIA_Public_Liaison@hhs.gov>
Subject: re: HHS Acknowledgement Email 2022-00693-FOIA-OS

To Whom It May Concern:

Please see the attached letter.