

Exhibit 1

To: Department of Human and Health Services (HHS)
Freedom of Information Officer
Hubert H. Humphrey Building, Room 729H
200 Independence Avenue, SW
Washington, D.C. 20201

From: Katherine Eban, Vanity Fair Magazine
623 11th St. Brooklyn, NY 11215
EbanVF40@gmail.com
917-821-9634

From: Emily Nadal, freelance journalist
657 West 161st Street Apt. 4D
New York, NY 10032

From: Bruce Gil, freelance journalist
33-20 85th St. Queens, NY 11372

Date: 11/20/21

Dear Freedom of Information Officer,

We are journalists working jointly on an article that is proceeding towards publication. It will be significant for public understanding and involves urgent matters of public health. I, Katherine Eban, am a Contributing Editor at Vanity Fair magazine with 25 years of journalism experience. Mr. Gil and Ms. Nadal are published freelance journalists working at my direction.

Under the Freedom of Information Act, 5 U.S.C. § 552, we are each requesting the following documents:

The timeframe for my below request is January 1, 2013 through the date the search for responsive records is conducted.

MOUNT SINAI RESEARCH DOCUMENTS

- Any Institutional Review Board registration, updates, and renewal forms and applications submitted to the HHS via the Office of Human Research Protections by the Mount Sinai Icahn School of Medicine, 1 Gustave L. Levy Place New York, NY 10029-5674.
 - Please also include any emails and communications between any Mount Sinai staff and the Office of Human Research Protections at HHS related to these forms.
- Copies of any and all Federalwide Assurance declarations sent to Mount Sinai from the HHS Office of Human Research Protections.

- Any documentation related to audits of research studies at Mount Sinai conducted by the HHS Office of Human Research Protections, including but not limited to emails, letters, analysis, reports, memos, communications with outside experts.

“A MULTISCALE INVESTIGATION OF THE LIVING HUMAN BRAIN” HEREAFTER REFERRED TO AS “THE LIVING BRAIN PROJECT”

Any and all complaints to the Office of Human Research Protections citing the ongoing study at Mount Sinai filed on the [National Institute of Health website](#) under the number 1R01AG069976-01.

- Please also include any emails and communications between Mount Sinai staff and HHS officials related to these complaints.
- Please include any internal HHS emails, letters, analyses, reports, memos, communications with outside experts, other federal or state agencies, or any other individuals related to these complaints.
- Please also include any emails, letters, analyses, reports, memos or other communications that mention the Living Brain Project sent between HHS officials.
- Any reports submitted to the Office of Human Research Protections related to the Living Brain Project including:
 - Any and all documentation of adverse events, up to and including death.
 - Any and all compliance oversight reports of Mount Sinai filed by the Office of Human Research Protections.
 - Please also include any emails and communications between Mount Sinai and HHS related to these reports.
 - Please include any internal HHS emails, letters, analyses, reports, memos, communications with outside experts or other agencies related to these reports.
- Any patient consent forms for the Living Brain Project, filed from the year 2013 through 2021.

FEE CATEGORIZATION

For fee categorization purposes, I am a representative of the news media. Through this request, I am gathering information for my journalistic work as an investigative journalist.

REQUEST FOR FEE WAIVER

Please waive any applicable fees. Release of the information is not primarily in my commercial interest and will contribute significantly to public understanding of deep brain stimulation and its effects. I plan to make the information that I am requesting available for the public interest.

REQUEST FOR EXPEDITED PROCESSING

Please provide expedited processing of this request which concerns a matter of urgency. As an investigative journalist, I am primarily engaged in disseminating information. There is an urgency to make these records available to me on an expedited basis so that I may inform the public.

POLICY AND LEGAL DIRECTION FOR OPEN GOVERNMENT

Disclosure of the above referenced agency records are also sought in order to promote government transparency, and to reflect the Administration's policy to support our nation's fundamental commitment to open government. As the Supreme Court has observed, "virtually every document generated by an agency is available in one form or another, unless it falls within one of the Act's nine exemptions." *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 136 (1975). FOIA was designed to "pierce the veil of administrative secrecy and to open agency action to the light of public scrutiny," see, e.g., *Dept. of the Air Force v. Rose*, 425 U.S. 352, 361 (1976), and in order "to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed." *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978); see also *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1310 (D.C. Cir. 2003); *United States Dept. of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 773 (1989).

The above described agency records are subject to disclosure under FOIA, and are not otherwise exempt from disclosure pursuant to FOIA's nine statutory exemptions. See 5 U.S.C. § 552(b)(1) - (9). To the extent that a determination is made by your FOIA office staff that any limited portions of the records listed above will be withheld from disclosure for this request, FOIA expressly requires all agencies to disclose "[a]ny reasonably segregable portion of a record . . . after deletion of the portions of the record which are exempt." 5 U.S.C. §552(b). See, e.g., *Oglesby v. U.S. Dept. of Army*, 79 F.3d 1172, 1178 (D.C. Cir. 1996); see also *Abdelfattah v. U.S. Dept. Of Homeland Security*, 488 F.3d 178, 186-187 (3rd Cir).

The 2007 Openness Promotes Effectiveness in our National Government Act amendments to FOIA (the "OPEN Government Act") requires identification of the amount of any material withheld, the location of any withholdings, a direct reference to the specific statutory exemption supporting each withholdings asserted, and if technically possible, also require that this information shall "be indicated at the place in the record where such deletion is made." See 5 U.S.C. § 552(b). Therefore, I would appreciate your assistance in expressly identifying any exempt responsive records (or portions thereof) and the applicable FOIA exemptions for any responsive materials withheld for this FOIA request.

Please inform me in writing if there are any "unusual circumstances" that will cause delay in responding to this FOIA request, or providing the records which are requested, and in addition, please provide the approximate date that you anticipate a final response will be provided.

ESTIMATED DATE OF COMPLETION REQUESTED

I specifically request an estimated date of completion of this request.

CONTACT

I would prefer the request be filed electronically. This can be done either by email to EbanVF40@gmail.com, or if the file is too large, please mail documents by CD-ROM to the following address:

Katherine Eban, Vanity Fair Magazine
623 11th St. Brooklyn, NY 11215

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires. You can reach me by telephone with any questions at 917-821-9634

Sincerely,

Katherine Eban

Bruce Gil

Emily Nadal