

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WHITE COAT WASTE PROJECT
7288 Hanover Green Dr.
Mechanicsville, VA 23111

Plaintiff,

v.

THE UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,
200 Independence Way, S.W.
Washington DC 20201,

Defendant.

Civ. No. 24-cv-231

**Complaint for Declaratory and
Injunctive Relief**

1. This is an action under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, seeking the release of records related to the National Institute of Health's (NIH) experiments on dogs, cats, and nonhuman primates.

Jurisdiction and Venue

2. This Court has jurisdiction over the parties and subject matter pursuant to 5 U.S.C. § 552(a)(4)(B).

3. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B).

Parties

4. Plaintiff White Coat Waste Project, Inc. (White Coat) is a bipartisan taxpayer watchdog organization pursuant to Section 501(c)(3) of the Internal Revenue Code, with its headquarters located at 7288 Hanover

Green Drive, Mechanicsville, VA, 23111. White Coat's mission is to unite animal-lovers and liberty-lovers to find, expose, and defund wasteful taxpayer-funded animal experiments. White Coat is the requester of the information at issue here.

5. Defendant Department of Health and Human Services (DHHS) is an agency of the United States.

6. The National Institute of Health (NIH) is a component of DHHS.

7. DHHS, NIH, and their subcomponents have possession, custody, and control of the records White Coat seeks.

Statement of Facts

FOIA Case No. 58362

8. On May 18, 2022, White Coat submitted a FOIA request to the NIH seeking "copies of all correspondence (including their attachments) and animal records provided to, or obtained by, Amber Snyder, NIH Record Editorial Intern, related to her research into animal retirement and/or adoption of laboratory animals for her November 26, 2021 NIH Record article, *"Animal Care Workers Appreciated on Director's 'Gratitude Tour' Call."*

9. The agency's online portal assigned the request FOIA Case Number 58362.

10. The agency has not otherwise acknowledged the request.

11. To date, White Coat has not received any further response or production, or any denial letter, related to this request.

12. As of the filing of this Complaint, White Coat has not received a final determination and response regarding FOIA Case No. 58362.

13. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), White Coat is deemed to have exhausted its administrative remedies with regard FOIA Case No. 58362 because the agency has failed to meet the statutory time limit.

14. NIH and DHHS continue to wrongfully withhold the requested records from White Coat.

FOIA Case No. 59711

15. On February 14, 2023, White Coat submitted a FOIA request to the NIH National Institute of Allergy and Infectious Diseases seeking “copies of the following documents related to NIH intramural projects AI000932, P.I. Jesús Valenzuela and AI001334, P.I. Shaden Kamhawi between 1/1/2017 to the date of search:

- IACUC-approved protocols, including reviews and amendments;
- Animal welfare noncompliance incident reports with associated documents;
- Complete raw and unedited videos, edited videos, and photographs;
- Progress reports, and;

- PIs' correspondence related to collaborations in foreign countries.”

16. The agency's online portal assigned the request FOIA Case Number 59711.

17. The agency acknowledged the request the next day.

18. The same day, White Coat agreed to various redactions and exclusions the agency proposed, including personal identifying information for people who aren't the principal investigator on each project, as well as confidential business information.

19. To date, White Coat has not received any further response or production, or any denial letter, related to this request.

20. As of the filing of this Complaint, White Coat has not received a final determination and response regarding FOIA Case No. 59711.

21. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), White Coat is deemed to have exhausted its administrative remedies with regard FOIA Case No. 59711 because the agency has failed to meet the statutory time limit.

22. NIH and DHHS continue to wrongfully withhold the requested records from White Coat.

FOIA Case No. 59330

23. On November 28, 2022, White Coat submitted a FOIA request to the NIH seeking “a copy of the following documents related to NIH grant OD010939 to the University of Pennsylvania (January 1, 2020 – present):

1. Grant applications, renewals and amendments;
2. Any correspondence regarding the grant, including their attachments, and;
3. Progress reports.”

24. The agency’s online portal assigned the request FOIA Case Number 59330.

25. On December 27, 2022, the NIH Division of Program Coordination, Planning, and Strategic Initiatives acknowledged the request.

26. On February 22, 2023, at the agency’s request, White Coat agreed to exclude personal identifying information for people who aren’t the principal investigator on the project.

27. To date, White Coat has not received any further response or production, or any denial letter, related to this request.

28. As of the filing of this Complaint, White Coat has not received a final determination and response regarding FOIA Case No. 59330.

29. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), White Coat is deemed to have exhausted its administrative remedies with regard FOIA Case No. 59330 because the agency has failed to meet the statutory time limit.

30. NIH and DHHS continue to wrongfully withhold the requested records from White Coat.

FOIA Case No. 59332

31. On November 28, 2022, White Coat submitted a FOIA request to the NIH National Institute of Arthritis and Musculoskeletal and Skin Diseases seeking “a copy of the following documents related to NIAMS grants AR071975 and AR069619 to the University of Pennsylvania (January 1, 2020 – present)[:]

1. Grant applications, renewals and amendments;
2. Any correspondence regarding the grant, including their attachments, and;
3. Progress reports.”

32. The agency’s online portal assigned the request FOIA Case Number 59332.

33. On November 30, 2022, the agency acknowledged the request.

34. White Coat then negotiated with the agency and agreed to several of the agency’s proposed exclusions and redactions over the next few weeks. On December 13, 2022, White Coat agreed to exclude “biosketches”

from the request. On December 29, 2022, White Coat agreed to exclude “Names of non-PI personnel;” “Contact information of personnel (phone numbers, fax numbers, email addresses, mailing addresses);” and “Locations of labs and animal facilities” from the request. And on January 5, 2023, White Coat confirmed that it sought “letters of support” and was not willing to exclude them from its request.

35. To date, White Coat has not received any further response or production, or any denial letter, related to this request.

36. As of the filing of this Complaint, White Coat has not received a final determination and response regarding FOIA Case No. 59332.

37. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), White Coat is deemed to have exhausted its administrative remedies with regard FOIA Case No. 59332 because the agency has failed to meet the statutory time limit.

38. NIH and DHHS continue to wrongfully withhold the requested records from White Coat.

FOIA Case No. 59689

39. On February 28, 2023, White Coat submitted a FOIA request to the NIH seeking “copies of any correspondence – including its attachments – related to dog experiments between the following NIAID staff and the Fundação Oswaldo Cruz in Brazil (fiocruz.br) between 1/1/2018 to the date of search:

- Shaden Kamhawi[; and]
- Jesus Valenzuela[.]”

40. The agency’s online portal assigned the request FOIA Case Number 59698.

41. On February 15, 2023, White Coat agreed to a number of the agency’s proposed redactions or exclusions, including of personal identifying information for people other than the principal investigators, “non-PI [principal investigator] letters of support,” transportation services and invoices, and “animal locations, where they are being housed, building name/number, specific areas in the building and description of building facility security (referring to access to the building; square footage, and technology used to secure the building.”

42. On April 18, 2023, the agency acknowledged the request.

43. To date, White Coat has not received any further response or production, or any denial letter, related to this request.

44. As of the filing of this Complaint, White Coat has not received a final determination and response regarding FOIA Case No. 59698.

45. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), White Coat is deemed to have exhausted its administrative remedies with regard FOIA Case No. 59698 because the agency has failed to meet the statutory time limit.

46. NIH and DHHS continue to wrongfully withhold the requested records from White Coat.

FOIA Case No. 59717

47. On February 15, 2023, White Coat submitted a FOIA request to the NIH National Institute of Allergy and Infectious Diseases seeking “copies of the following documents related to NIAID’s contract number

75N98022F00005:

- Any and all correspondence regarding the contract;
- Contract and Statement of Work;
- IACUC-approved protocols, including reviews and amendments;
- Physical or electronic submission to the COR, including but not limited to:
 - Complete “Pre-Meeting Packets”, and
 - Laboratory notebooks
- Procurement and shipping records for all animals obtained under the contract (including, but not limited to invoices, certificates of veterinary inspection, other health certificates, shipping manifests, outing and contact sheets, and CDC notifications);
- Complete raw and unedited videos, edited videos, and photographs; and

- Animal welfare noncompliance incident reports with associated documents[.]”

48. The agency’s online portal assigned the request FOIA Case Number 59717.

49. On February 16, 2023, the agency asked White Coat to “provide the additional IDV number/confirm which award [White Coat is] looking for.” White Coat clarified the same day that “[t]he parent award ID for the contract [it is] requesting is **75N98021D00017.**”

50. To date, White Coat has not received any further response or production, or any denial letter, related to this request.

51. As of the filing of this Complaint, White Coat has not received a final determination and response regarding FOIA Case No. 59717.

52. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), White Coat is deemed to have exhausted its administrative remedies with regard FOIA Case No. 59711 because the agency has failed to meet the statutory time limit.

53. NIH and DHHS continue to wrongfully withhold the requested records from White Coat.

FOIA Case No. 59774

54. On February 24, 2023, White Coat submitted a FOIA request to the NIH Clinical Center seeking “a copy of all IACUC meeting minutes between the dates of 4/11/22 – the present related to the following protocols:

- CCM 19-01
- CCM 19-04[.]”

55. The agency’s online portal assigned the request FOIA Case Number 59774.

56. The agency acknowledged the request on March 1, 2023.

57. To date, White Coat has not received any further response or production, or any denial letter, related to this request.

58. As of the filing of this Complaint, White Coat has not received a final determination and response regarding FOIA Case No. 59774.

59. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), White Coat is deemed to have exhausted its administrative remedies with regard FOIA Case No. 59774 because the agency has failed to meet the statutory time limit.

60. NIH and DHHS continue to wrongfully withhold the requested records from White Coat.

FOIA Case No. 59782

61. On February 28, 2023, White Coat submitted a FOIA request to the NIH seeking “a copy of all correspondence, including its attachments between the following NIH staff and the University of Iowa related to dog experiments between November 1, 2022 to the date of search:

- Christine Jessup (Christine.Jessup@nih.gov)[;]
- Timothy Gondre-Lewis (TGLewis@nih.gov)[;]

- Renate Myles (Renate.Myles@nih.gov)[;]
- Judy Coan-Stevens (Judith.Coan-Stevens@nih.gov)[; and]
- Anyone monitoring NIAID’s Media Inquiries (NiaidNews@niaid.nih.gov)[.]”

62. The agency’s online portal assigned the request FOIA Case Number 59782.

63. To date, White Coat has not received any further response or production, or any denial letter, related to this request.

64. As of the filing of this Complaint, White Coat has not received a final determination and response regarding FOIA Case No. 59782.

65. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), White Coat is deemed to have exhausted its administrative remedies with regard FOIA Case No. 59782 because the agency has failed to meet the statutory time limit.

66. NIH and DHHS continue to wrongfully withhold the requested records from White Coat.

FOIA Case No. 60251

67. On June 7, 2023, White Coat submitted a FOIA request to the NIH Office of Acquisition and Logistics Management seeking “copies of the following documents related to NIH’s federal contract 75N98023P01001:

- Contract and Statement of Work[;]
- IACUC-approved protocols; including reviews and amendments[;]

- Procurement and shipping records for all animals obtained under the contract (including but not limited to: invoices, certificates of veterinary inspection, other health certificates, shipping manifests, routing and contact sheets, and CDC notifications)[;]
- Acquisition and disposition records for the dogs obtained under the contract[;]
- Complete raw and unedited videos, edited videos, and photographs[;]
- Animal welfare noncompliance incident reports with associated documents.”

68. The agency’s online portal assigned the request FOIA Case Number 60251.

69. The agency has not otherwise acknowledged the request.

70. To date, White Coat has not received any further response or production, or any denial letter, related to this request.

71. As of the filing of this Complaint, White Coat has not received a final determination and response regarding FOIA Case No. 60251.

72. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), White Coat is deemed to have exhausted its administrative remedies with regard FOIA Case No. 60251 because the agency has failed to meet the statutory time limit.

73. NIH and DHHS continue to wrongfully withhold the requested records from White Coat.

FOIA Case No. 60421

74. On July 17, 2023, White Coat submitted a FOIA request to the NIH seeking “copies of the following documents related to the use of cats at the NIH:

1. A census of all cats currently in NIH’s possession for use in NIH’s intramural laboratories (including each animal’s ID number, breed, name, date of birth, source of animal, and assigned protocol)[;]
2. Procurement and acquisition records (including invoices) for all cats currently held in NIH’s facilities; and,
3. Photographs and videos of cats currently held in NIH’s facilities.”

75. The agency’s online portal assigned the request FOIA Case Number 60421.

76. The agency has not otherwise acknowledged the request.

77. To date, White Coat has not received any further response or production, or any denial letter, related to this request.

78. As of the filing of this Complaint, White Coat has not received a final determination and response regarding FOIA Case No. 60421.

79. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), White Coat is deemed to have exhausted its administrative remedies with regard FOIA Case No. 60421 because the agency has failed to meet the statutory time limit.

80. NIH and DHHS continue to wrongfully withhold the requested records from White Coat.

FOIA Case No. 60633

81. On August 30, 2023, White Coat submitted a FOIA request to the NIH Office of the Director seeking “copies of the following documents in relation to NIH grant **OT2OD030537**, ‘Simulations of spinal cord recruitment to optimize bioelectronic interventions for lower urinary tract control’, to the University of Pittsburgh:

1. Funding applications, renewals, and amendments[;]
2. Disbursement records[;]
3. The 3 most recent progress reports.”

82. The agency’s online portal assigned this request FOIA Case Number 60633.

83. To date, White Coat has not received any further response or production, or any denial letter, related to this request.

84. As of the filing of this Complaint, White Coat has not received a final determination and response regarding FOIA Case No. 60633.

85. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), White Coat is deemed to have exhausted its administrative remedies with regard FOIA Case No. 60633 because the agency has failed to meet the statutory time limit.

86. NIH and DHHS continue to wrongfully withhold the requested records from White Coat.

FOIA Case No. 60634

87. On August 30, 2023, White Coat submitted a FOIA request to the NIH Clinical Center seeking “a copy of any active Clinic Center IACUC-approved protocols where at least one dog is required.”

88. The agency’s online portal assigned the request FOIA Case Number 60634.

89. The agency acknowledged the request the same day.

90. To date, White Coat has not received any further response or production, or any denial letter, related to this request.

91. As of the filing of this Complaint, White Coat has not received a final determination and response regarding FOIA Case No. 60634.

92. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), White Coat is deemed to have exhausted its administrative remedies with regard FOIA Case No. 60634 because the agency has failed to meet the statutory time limit.

93. NIH and DHHS continue to wrongfully withhold the requested records from White Coat.

FOIA Case No. 60793

94. On October 3, 2023, White Coat submitted a FOIA request to the NIH National Institute of Mental Health seeking “a copy of the complete and most recent version of each NIMH protocol listed below: LBC-22; LN-14; LN-16; LN-20; LN-23; LN-24; LN-27; LN-28; LN-29; MIB-02; PIF-02; PIF-03; SBN-02; SBN-03; SCCN-01; TGC-03; VMRB-11; and VMRB-14.”

95. The agency’s online portal assigned the request FOIA Case Number 60793.

96. That same day, White Coat agreed to the agency’s request to exclude or redact locations and personal identifying information of secondary staff.

97. To date, White Coat has not received any further response or production, or any denial letter, related to this request.

98. As of the filing of this Complaint, White Coat has not received a final determination and response regarding FOIA Case No. 60793.

99. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), White Coat is deemed to have exhausted its administrative remedies with regard FOIA Case No. 60793 because the agency has failed to meet the statutory time limit.

100. NIH and DHHS continue to wrongfully withhold the requested records from White Coat.

FOIA Case No. 60813

101. On October 5, 2023, White Coat submitted a FOIA request to the NIH National Institute of Allergy and Infectious Diseases seeking “copies of the following documents related to NIH contract **75N93020D00008**:

1. Contract and Statement of Work[;]
2. IACUC-approved protocols, including reviews and amendments[;]
3. Physical or electronic submission to the COR, including but not limited to:
 - a) Complete “Pre-Meeting Packets”[; and]
 - b) Laboratory notebooks[;]
4. Procurement and shipping records for all animals obtained under the contract (including, but not limited to invoices, certificates of veterinary inspection, other health certificates, shipping manifests, outing and contact sheets, and CDC notifications)[;]
5. Complete raw and unedited videos, edited videos, and photographs[; and]
6. Animal welfare noncompliance incident reports with associated documents[.]”

102. The agency’s online portal assigned the request FOIA Case Number 60813.

103. On October 6, 2023, the agency acknowledged the request.

104. On November 6, 2023, White Coat agreed to the agency's request to exclude or redact "the names of all individuals as well as identifying information such as addresses, phone numbers, email address, and fax numbers from the requested contract documents."

105. To date, White Coat has not received any further response or production, or any denial letter, related to this request.

106. As of the filing of this Complaint, White Coat has not received a final determination and response regarding FOIA Case No. 60813.

107. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), White Coat is deemed to have exhausted its administrative remedies with regard FOIA Case No. 60813 because the agency has failed to meet the statutory time limit.

108. NIH and DHHS continue to wrongfully withhold the requested records from White Coat.

FOIA Case No. 60866

109. On October 16, 2023, White Coat submitted a FOIA request to the NIH National Institute of Allergy and Infectious Diseases seeking "copies of the following documents related to NIH contract #75N93019D00032:

1. Contract and Statement of Work[;]
2. IACUC-approved protocols, including reviews and amendments[;]

3. Physical or electronic submission to the COR (including but not limited to complete “Pre-Meeting Packets”, and laboratory notebooks)[;]
4. Procurement and shipping records for all animals obtained under the contract (including, but not limited to invoices, certificates of veterinary inspection, other health certificates, shipping manifests, outing and contact sheets, and CDC notifications)[;]
5. Complete raw and unedited videos, edited videos, and photographs[;]
6. Animal welfare noncompliance incident reports with associated documents[; and]
7. Acquisition and disposition records for the dogs obtained under the contract.”

110. The agency’s online portal assigned the request FOIA Case Number 60866.

111. On October 18, 2023, the agency acknowledged the request.

112. To date, White Coat has not received any further response or production, or any denial letter, related to this request.

113. As of the filing of this Complaint, White Coat has not received a final determination and response regarding FOIA Case No. 60866.

114. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), White Coat is deemed to have exhausted its administrative remedies with regard FOIA Case No. 60866 because the agency has failed to meet the statutory time limit.

115. NIH and DHHS continue to wrongfully withhold the requested records from White Coat.

Count I: Violation of FOIA

Plaintiff realleges and incorporates by reference the allegations in each of the preceding paragraphs of this Complaint.

DHHS has wrongfully withheld agency records requested by White Coat.

White Coat has exhausted applicable administrative remedies with respect to DHHS's wrongful withholding of the requested records.

White Coat and the public have been and will continue to be irreparably harmed until DHHS is ordered to comply with White Coat's FOIA requests.

White Coat is entitled to injunctive relief with respect to the release and disclosure of the requested documents.

Request for Relief

WHEREFORE, White Coat respectfully requests that this Court:

- (1) Declare DHHS's failure to comply with FOIA to be unlawful;

- (2) Enjoin DHHS from continuing to withhold the public records responsive to White Coat's FOIA requests and otherwise order DHHS to produce the requested public records without further delay;
- (3) Grant White Coat an award of attorneys' fees and other litigation costs reasonably incurred in this action, to the extent permitted by law; and
- (4) Grant White Coat such other and further relief which the Court deems proper.

Date: January 25, 2024

Respectfully submitted,

/s/ Matthew Strugar
Matthew Strugar (D.C. Bar No. 1010198)
Law Office of Matthew Strugar
3435 Wilshire Blvd., Suite 2910
Los Angeles, CA 90010
323-696-2299
matthew@matthewstrugar.com