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FOIA APPEAL

VIA FEDEX AND EMAIL

February 15, 2018

Ms. Catherine M. Teti
Deputy Agency Chief FOIA Officer
U.S. Department of Health and Human Services
Office of the Assistant Secretary for Public Affairs
Room 729H
200 Independence Avenue, S.W.
Washington, D.C. 20201
Email: FOIARequest@hhs.gov

**Re: FOIA Request Case Nos.: 46820 (NIH)
18F071 (HRSA)**

Dear Ms. Teti:

This firm represents Informed Consent Action Network (“**ICAN**”). On behalf of ICAN, on June 14, 2017, we requested records from the files of the National Institutes of Health (“**NIH**”) pursuant to the Freedom of Information Act (5 U.S.C. § 552, as amended) (“**FOIA**”). The NIH assigned this request FOIA Case No. 468203, later forwarded the request to the Health Resources & Services Administration (“**HRSA**”) which assigned FOIA Case No. 18F071 in that agency (collectively the “**FOIA Request**”). In a letter, dated January 31, 2018, Thomas Flavin, Freedom of Information Officer, provided a “final response” to the FOIA Request. I write now to appeal this final response.

A. The FOIA Request

The FOIA Request sought the following documents (the “**Request**”):

Any and all recommendations to the Secretary of HHS pursuant to 42 U.S.C. § 300aa-27(b)(3).

(Exhibit A.)¹ By way of background, the FOIA Request, explains as follows:

¹ All “Exhibits” referenced herein are appended to this letter.

Section 300-aa27(b) provides that “The Secretary shall establish a task force on safer childhood vaccines [the “**Task Force**” or “**Task Force on Safer Childhood Vaccines**”] which shall consist of the Director of the National Institutes of Health, the Commissioner of the Food and Drug Administration, and the Director of the Centers for Disease Control.” This section further provides that “The Director of the National Institutes of Health shall serve as chairman of the task force . . . [and] the task force shall prepare recommendations to the Secretary concerning implementation of the requirements of subsection (a) of this section.”²

(Ex. A at 1.) Hence, the Request’s demand for “all recommendations to the Secretary of HHS pursuant to 42 U.S.C. § 300aa-27(b)(3)” was requesting that NIH provide copies of the recommendations that the Task Force on Safer Childhood Vaccines, chaired by the head of NIH, is required to make to the Secretary of HHS pursuant to 42 U.S.C. § 300aa-27(b)(3).

B. Correspondence Regarding the FOIA Request

On August 25, 2017, the FOIA Request was sent via email and FedEx to Susan Cornell, Freedom of Information Officer, NIH. (Exhibit A.)

On August 30, 2017, Roger Bordine, FOIA Office, NIH, emailed an acknowledgment letter from the NIH assigning this request as “Case No. 46820” and stated:

This acknowledges your August 25, 2017, Freedom of Information Act (FOIA) request addressed to the FOIA Office, National Institutes of Health, (NIH) and received that same day. You requested a copy of any and all recommendations, by the Director of the NIH, to the Secretary of HHS pursuant to 42 U.S.C. § 300aa-27(b)(3) from January 2009 to present. . . .

We have queried the files of the appropriate NIH offices for records responsive to your request. If any responsive documents are located, they will be reviewed for releasability, and all releasable information will be sent to you.

(Exhibit B.)

² Subsection (a) of 42 U.S.C. § 300aa-27 provides: “In the administration of this part and other pertinent laws under the jurisdiction of the Secretary, the Secretary shall— (1) promote the development of childhood vaccines that result in fewer and less serious adverse reactions than those vaccines on the market on December 22, 1987, and promote the refinement of such vaccines, and (2) make or assure improvements in, and otherwise use the authorities of the Secretary with respect to, the licensing, manufacturing, processing, testing, labeling, warning, use instructions, distribution, storage, administration, field surveillance, adverse reaction reporting, and recall of reactogenic lots or batches, of vaccines, and research on vaccines, in order to reduce the risks of adverse reactions to vaccines.”

On October 24, 2017, a member of this firm followed-up with Mr. Bordine stating: “I hope this email finds you well. I am writing to you to find out the status of FOIA Case No. 46820. I appreciate your time.” (Exhibit C at 5.) Mr. Bordine responded that the search was ongoing. *Id.*

On November 28, 2017, the undersigned wrote to Mr. Bordine in substantive part as follows:

This request from August 28, 2017 is a very simple and straightforward request for recommendations (if any) made by a government task force. These should be readily accessible. Can you please explain why these recommendations, if any exist, are not readily accessible and produced? If there are no responsive documents, please just let us know.

(Exhibit C at 4.) That same day, Mr. Bordine responded by stating “The search did find responsive records” and were in the queue to be reviewed. (Exhibit C at 3.) After further follow-up from the undersigned, Mr. Bordine advised on December 21, 2017 that “The NIH FOIA Office has gathered 37 pages of records responsive to your request” but that:

Upon initial review, we have determined that these records fall under the jurisdiction of Health Resources & Services Administration (HRSA) and as such, your request and records related to your request are being forwarded to HRSA for direct response to you. Our preliminary discussion with the HRSA FOIA Office suggest that HRSA believes these records will be ready within the next two months.

(Exhibit C at 2.) The undersigned requested that Mr. Bordine provide “the name and email address of the FOIA officer at HRSA who advised the records will be ready in the next two months.” (Exhibit C at 1.) Mr. Bordine responded that he did not have this information and added that the records located by NIH “were referred to HRSA because they were created by HRSA.” (Exhibit C at 1.)

On December 27, 2017, Cindy Perez, FOIA Office, HRSA, sent a letter stating that her office had assigned a case number, 18F071, to the FOIA Request. (Exhibit D at 3.) Mr. Perez’s email added that “The National Institutes of Health has referred approximately 37 pages to the Health Resources and Services Administration for direct response.” (Exhibit D at 2.) After this office twice followed-up with Mr. Perez about the status of this request, Mr. Perez stated on January 30, 2018 that “your request is with an analyst.” (Exhibit D at 1.)

C. The Final Response to the FOIA Request

On January 31, 2018, Ms. Perez sent an email addressed to the undersigned stating “Your final response letter is attached.” (Exhibit E at 1.) The final response letter was signed by Mr. Flavin (the “**Final Response Letter**”) and stated:

This is in response to your August 25, 2017 FOIA request which you submitted to the National Institutes of Health (NIH). On December 21, 2017, NIH forwarded your request to this office for a direct response. In summary, you requested all recommendations created after January 1, 2009 to the Secretary of HHS pursuant to 42 U.S.C. §300aa-27(b)(3).

Upon receipt of your request, it was sent to Healthcare Systems Bureau (HSB). HSB reported that the Advisory Commission on Childhood Vaccines (ACCV) advises and makes recommendations to the Secretary of the U.S. Department of Health and Human Services on issues relating to the operation of the National Vaccine Injury Compensation Program. All ACCV reports and recommendations are available publicly, on HRSA website: <https://www.hrsa.gov/advisorycommittees/childhoodvaccines/reportsrecommendations.html>.

(Exhibit E at 2.)

D. The Final Response Letter is Deficient for Numerous Reasons

The Final Response Letter is deficient for several reasons.

First, the Final Response Letter is non-responsive to the Request. The Request sought any recommendations made by the Task Force on Safer Childhood Vaccines to the Secretary of HHS pursuant to 42 U.S.C. § 300aa-27(b)(3). (Exhibit A.) However, the Final Response Letter directs the undersigned to recommendations made by the Advisory Commission on Childhood Vaccines (“ACCV”). (Exhibit E.) The ACCV is a separate and independent committee, chartered under a different section of the U.S. Code, with its own statutory responsibility to make recommendations to the Secretary of HHS. 42 U.S.C. § 300aa-19. The FOIA Request sought recommendations from the Task Force on Safer Childhood Vaccines, but the request cited to recommendations by the ACCV, a different advisory commission. As such, the Final Response Letter was not responsive to the FOIA Request.

Second, to the extent that the Final Response Letter’s silence regarding any recommendations made by the Task Force indicates that no documents reflecting any such recommendation exist, we also appeal that adverse determination. 45 C.F.R. § 5.61(b) (“Adverse determinations include: . . . Determination that a record does not exist or cannot be found”). Pursuant to 42 U.S.C. § 300aa-27(b)(3), the Task Force is required to make recommendations to the Secretary of HHS. Documentation reflecting those recommendations may only be withheld by asserting one of the exemptions listed in 45 CFR §§ 5.31, 5.32. The Final Response Letter fails to list any such exception and hence NIH must either confirm that it has no records responsive to the Request or otherwise either produce responsive records or provide a valid exemption listed in 45 CFR §§ 5.31, 5.32 for withholding any such records.

Third, the NIH stated that the “NIH FOIA Office has gathered 37 pages of records responsive to your request.” (Exhibit C at 2.) HHS, however, failed to either produce these 37 pages or to assert that any exemptions listed in 45 CFR §§ 5.31, 5.32 apply to any of the 37 pages.

E. Appellate Request

Given the foregoing, we request:

1. NIH to either (1) make available to Plaintiff any and all records which are responsive to the FOIA Request; (2) assert a valid exemption listed in 45 CFR §§ 5.31, 5.32 for withholding any such records; or (3) state that no such records exist within the NIH;
2. HRSA to either (1) make available to Plaintiff any and all records which are responsive to the FOIA Request; (2) assert a valid exemption listed in 45 CFR §§ 5.31, 5.32 for withholding any such records; or (3) state that no such records exist within the HRSA; and
3. NIH and HRSA disclose the “37 pages of records responsive to your request” as it has not asserted any basis listed in 45 CFR §§ 5.31, 5.32 for withholding these documents.

Thank you for your time and attention to this matter. If you require any additional information, please contact me at (212) 532-1091 or through email at aaron@sirillp.com.

Very truly yours,



Aaron Siri, Esq.

Enclosures

EXHIBIT A

Subject: FOIA Request on Behalf of Aaron Siri
Date: Friday, August 25, 2017 at 9:52:16 AM Central Daylight Time
From: William Pauley
To: nihfoia@mail.nih.gov
CC: Aaron Siri, Kimberly Hertz
Attachments: 20170825-NIH-FOIA Request Letter.pdf

Dear Ms. Cornell:

Please see the attached FOIA request submitted on behalf of Aaron Siri. This request is also being sent via FedEx.

Sincerely,

William

William H. Pauley, Law Clerk

SIRI & GLIMSTAD LLP

200 Park Avenue
Seventeen Floor
New York, NY 10166
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F: 646-417-5967
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FREEDOM OF INFORMATION ACT REQUEST

VIA FEDEX AND EMAIL

August 25, 2017

Susan Cornell
Freedom of Information Act Officer
National Institutes of Health
Building 31 Room 5B35
9000 Rockville Pike
Bethesda, Maryland 20892
Email: nihfoia@mail.nih.gov

Re: National Institutes of Health and 42 U.S.C. §300aa-27(b)

Dear Ms. Cornell:

This firm represents Informed Consent Action Network (“ICAN”). On behalf of ICAN, we are requesting records pursuant to the Freedom of Information Act (5 U.S.C. §552, as amended) from the files of the National Institutes of Health (“NIH”).

Section 300-aa27(b) provides that “The Secretary shall establish a task force on safer childhood vaccines which shall consist of the Director of the National Institutes of Health, the Commissioner of the Food and Drug Administration, and the Director of the Centers for Disease Control.” This section further provides that “The Director of the National Institutes of Health shall serve as chairman of the task force . . . [and] the task force shall prepare recommendations to the Secretary concerning implementation of the requirements of subsection (a) of this section.”

By this letter, please provide the following records, created after January 1, 2009, in NIH’s possession to the above referenced address in electronic form on a CD or DVD:

Any and all recommendations to the Secretary of HHS pursuant to 42 U.S.C. §300aa-27(b)(3).

We ask that you waive any and all fees or charges pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii). ICAN is a not-for-profit 501(c)(3) organization whose mission is to raise public awareness about vaccine safety and to provide the public with information to give informed consent. As part of their mission, ICAN actively investigates and disseminates information regarding vaccine safety issues, including through their website, and through press events and

releases. They are seeking the information in this FOIA request to allow them to contribute to the public understanding of the government's vaccine safety programs, including the government's efforts to promote vaccine safety. The information we are requesting will not contribute to any commercial activities.

Please note that the FOIA provides that if only portions of a requested file are exempted from release, the remainder must still be released. We therefore request that we be provided with all non-exempt portions which are reasonably segregable. We further request that you describe any deleted or withheld material in detail and specify the statutory basis for the denial as well as your reasons for believing that the alleged statutory justification applies. Please also separately state your reasons for not invoking your discretionary powers to release the requested documents in the public interest. Such statements may help to avoid unnecessary appeal and litigation. ICAN of course reserves all rights to appeal the withholding or deletion of any information.

Access to the requested records should be granted within twenty (20) business days from the date of your receipt of this letter. Failure to respond in a timely manner shall be viewed as a denial of this request and ICAN may immediately file an administrative appeal.

If you would like to discuss our requests or any issues raised in this letter, please feel free to contact me at (212) 532-1091 during normal business hours. Thank you for your time and attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'ASiri', written in a cursive style.

Aaron Siri, Esq.



February 6, 2018

Dear Customer:

The following is the proof-of-delivery for tracking number **770112616085**.

Delivery Information:

Status:	Delivered	Delivery location:	BETHESDA, MD
Signed for by:	R.BORDINE	Delivery date:	Aug 28, 2017 14:40
Service type:	FedEx Priority Overnight		
Special Handling:	Deliver Weekday		

Signature image is available. In order to view image and detailed information, the shipper or payor account number of the shipment must be provided.

Shipping Information:

Tracking number:	770112616085	Ship date:	Aug 25, 2017
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Recipient:
BETHESDA, MD US

Shipper:
NEW YORK, NY US

Reference

ICAN

Thank you for choosing FedEx.

EXHIBIT B

NIH FOIA Request - Siri 46820

Bordine, Roger (NIH/OD) [E] <roger.bordine@nih.gov>

Wed 8/30/2017 5:25 PM

To: William Pauley <wpauley@sirillp.com>;

Cc: NIH FOIA <nihfoia@od.nih.gov>;

📎 1 attachments (75 KB)

46820 Siri.pdf;

Good Afternoon,

Please see the attached acknowledgment of your NIH FOIA request.

Thank you.

Roger Bordine
Program Assistant
Freedom of Information Office
National Institutes of Health
Building 31, [Room 5B35](#)
[31 Center Drive](#)
[Bethesda, MD 20892](#)

Phone: 301-496-5633
Fax: 301-402-4541
Roger.bordine@nih.gov





DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

National Institutes of Health
Freedom of Information Office
Building 31, Room 5B-35
31 Center Drive, MSC 2107
Bethesda, Maryland 20892-2107
phone: (301) 496-5633
fax: (301) 402-4541

Via email: wpauley@sirillp.com

August 30, 2017

Aaron Siri, Esq.
Siri & Glimstad, LLP
200 Park Avenue, 17th Floor
New York, NY 10166

Re: FOI Case No. 46820

Dear Mr. Siri:

This acknowledges your August 25, 2017, Freedom of Information Act (FOIA) request addressed to the FOIA Office, National Institutes of Health, (NIH) and received that same day. You requested a copy of any and all recommendations, by the Director of the NIH, to the Secretary of HHS pursuant to 42 U.S.C. §300aa-27(b)(3) from January 2009 to present. You also requested a fee waiver.

We have queried the files of the appropriate NIH offices for records responsive to your request. If any responsive documents are located, they will be reviewed for releasability, and all releasable information will be sent to you. We will do everything possible to comply with your request in a timely manner. Please feel free to contact me at [nihfoia@mail.nih.gov](mailto:.nihfoia@mail.nih.gov) or on (301) 496-5633 for additional information or to inquire about the status of your request.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the Department of Health and Human Services (HHS) FOIA Regulations as they apply to "other" requesters. As an "other" category requester you will be charged for duplication at 10-cents per page although the first 100 pages are free; 2 hours of search time are free and thereafter search time is charged at the hourly rate (\$23.00, \$46.00 and \$83.00) of the searcher; there is no charge for review time. Because we are uncertain that applicable fees will exceed our minimum charge (\$25.00), we are not addressing your request for a fee waiver at this time. However, if we determine that there will be fees associated with processing your request, we will contact you at that time.

Page 2 – Mr. Siri (46820)

At any time during the processing of your request, you may seek assistance from the NIH FOIA Public Liaison:

NIH FOIA Public Liaison
Stephanie Clipper
Public Affairs Specialist
Office of Communications and Public Liaison
Building 1, Room 331
1 Center Drive
Bethesda, MD 20892
301-496-1828 (phone)
301-496-0017 (fax)
nihfia@mail.nih.gov (email)

Sincerely,

A handwritten signature in blue ink that reads "Roger Bordine".

Roger Bordine
Freedom of Information Office, NIH

EXHIBIT C

Subject: RE: NIH FOIA Request - Siri 46820
Date: Thursday, December 21, 2017 at 3:03:29 PM Central Standard Time
From: NIH FOIA
To: Aaron Siri
CC: William Pauley, NIH FOIA, Kimberly Hertz
Attachments: image001.png, image002.png, image003.png

Good Afternoon Mr. Siri,

We did not get the name of the person answering the central telephone number – available on their website.

The records were referred to HRSA because they were created by HRSA. Because we are not familiar with any sensitivities associated with the records, we defer to HRSA for a description of their records.

Thank you.

Roger Bordine
Program Assistant
Freedom of Information Office
National Institutes of Health
Building 31, Room 5B35
31 Center Drive
Bethesda, MD 20892

Phone: 301-496-5633

Fax: 301-402-4541

Roger.bordine@nih.gov



From: Aaron Siri [mailto:aaron@sirillp.com]
Sent: Thursday, December 21, 2017 3:56 PM
To: Bordine, Roger (NIH/OD) [E] <roger.bordine@nih.gov>
Cc: William Pauley <wpauley@sirillp.com>; NIH FOIA <nihfoia@od.nih.gov>; Kimberly Hertz <khertz@sirillp.com>
Subject: RE: NIH FOIA Request - Siri 46820

Mr. Roger,

Please send me the name and email address of the FOIA official at HRSA who advised the records will be ready in the next two months.

Also, can you provide general information about the 37 pages identified (are they emails, documents, etc.) and please explain why documents in the possession of NIH would be subject to the jurisdiction of HRSA.

Thank you.

Best regards,
Aaron

From: Bordine, Roger (NIH/OD) [E] [<mailto:roger.bordine@nih.gov>]
Sent: Thursday, December 21, 2017 3:05 PM
To: Aaron Siri <aaron@sirillp.com>
Cc: William Pauley <wpauley@sirillp.com>; NIH FOIA <[nihfoia@od.nih.gov](mailto:.nihfoia@od.nih.gov)>
Subject: RE: NIH FOIA Request - Siri 46820

Good Afternoon Mr. Siri,

The NIH FOIA Office has gathered 37 pages of records responsive to your request. Upon initial review, we have determined that these records fall under the jurisdiction of Health Resources & Services Administration (HRSA) and as such, your request and records related to your request are being forwarded to HRSA for direct response to you. Our preliminary discussions with the HRSA FOIA Office suggest that HRSA believes these records will be ready within the next two months.

The contact information for the HRSA FOIA Office is as follows:

HRSA Freedom of Information Office

5600 Fishers Lane, Room 13-N82

Rockville, Maryland 20857

Email: foia@hrsa.gov

Phone: 301-443-2865

HRSA FOIA Officer: Tom Flavin

Thank you, and please let us know if you have any questions.

Roger Bordine

Program Assistant

Freedom of Information Office

National Institutes of Health

Building 31, Room 5B35

31 Center Drive

Bethesda, MD 20892

Phone: 301-496-5633

Fax: 301-402-4541

Roger.bordine@nih.gov



From: Aaron Siri [<mailto:aaron@sirillp.com>]

Sent: Thursday, December 21, 2017 1:10 PM
To: Bordine, Roger (NIH/OD) [E] <roger.bordine@nih.gov>
Cc: William Pauley <wpauley@sirillp.com>
Subject: RE: NIH FOIA Request - Siri 46820
Importance: High

Good afternoon Mr. Bordine,

Please let me know (1) just the total page count of the documents you have received in response this FOIA request in queue to be reviewed, (2) how many other cases are in the queue ahead of this one, and (3) a rough estimation of when you anticipate the review to be completed so that you can produce the documents.

Thank you.

Best regards,
Aaron

From: Bordine, Roger (NIH/OD) [E] [<mailto:roger.bordine@nih.gov>]
Sent: Tuesday, November 28, 2017 3:05 PM
To: Aaron Siri <aaron@sirillp.com>
Cc: William Pauley <wpauley@sirillp.com>
Subject: RE: NIH FOIA Request - Siri 46820

Good Afternoon Mr. Siri,

Thank you for your inquiry into the status of your request.

The search did find responsive records, but the records for your case are in the queue behind several other cases to be reviewed for releasability.

As you may know, the FOIA stipulates that all requests be handled on a first-in first-out basis and as such, the records responsive to your request will be reviewed once the records for cases ahead of yours are reviewed.

Thank you for your inquiry, and please let us know if you have any other questions.

Roger Bordine
Program Assistant
Freedom of Information Office
National Institutes of Health
Building 31, Room 5B35
31 Center Drive
Bethesda, MD 20892

Phone: 301-496-5633
Fax: 301-402-4541
Roger.bordine@nih.gov



From: Aaron Siri [<mailto:aaron@sirillp.com>]
Sent: Tuesday, November 28, 2017 1:07 PM
To: Bordine, Roger (NIH/OD) [E] <roger.bordine@nih.gov>
Cc: William Pauley <wpauley@sirillp.com>
Subject: RE: NIH FOIA Request - Siri 46820
Importance: High

Dear Mr. Bordine,

I hope you had a nice thanksgiving.

This request from August 28, 2017 is a very simple and straightforward request for recommendations (if any) made by a government task force. These should be readily accessible. Can you please explain why these recommendations, if any exist, are not readily accessible and produced? If there are no responsive documents, please just let us know.

Thank you.

Best regards,
Aaron

From: William Pauley
Sent: Tuesday, November 28, 2017 1:00 PM
To: Aaron Siri <aaron@sirillp.com>
Subject: FW: NIH FOIA Request - Siri 46820

--

William H. Pauley, Law Clerk
SIRI & GLIMSTAD LLP
200 Park Avenue
Seventeenth Floor
New York, NY 10166
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F: 646-417-5967
www.sirillp.com

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From: NIH FOIA <nihfoia@od.nih.gov>
Date: Tuesday, October 24, 2017 at 2:58 PM
To: William Pauley <wpauley@sirillp.com>, "Bordine, Roger (NIH/OD) [E]" <roger.bordine@nih.gov>
Cc: NIH FOIA <nihfoia@od.nih.gov>
Subject: RE: NIH FOIA Request - Siri 46820

Good Afternoon,

Your request is still out for search and this office is awaiting to review the responsive records once they have been located.

Thank you.

Roger Bordine

Program Assistant
Freedom of Information Office
National Institutes of Health
Building 31, Room 5B35
31 Center Drive
Bethesda, MD 20892

Phone: 301-496-5633

Fax: 301-402-4541

Roger.bordine@nih.gov



From: William Pauley [<mailto:wpauley@sirillp.com>]
Sent: Tuesday, October 24, 2017 2:37 PM
To: Bordine, Roger (NIH/OD) [E] <roger.bordine@nih.gov>
Cc: NIH FOIA <nihfoia@od.nih.gov>
Subject: Re: NIH FOIA Request - Siri 46820

Dear Mr. Bordine:

I hope this email finds you well. I am writing to you to find out the status of FOIA Case No. 46820. I appreciate your time.

Sincerely,

William

--

William H. Pauley, Law Clerk

SIRI & GLIMSTAD LLP

200 Park Avenue
Seventeenth Floor
New York, NY 10166
P: 212-532-1091
F: 646-417-5967
www.sirillp.com

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From: "Bordine, Roger (NIH/OD) [E]" <roger.bordine@nih.gov>

Date: Wednesday, August 30, 2017 at 5:25 PM

To: William Pauley <wpauley@sirillp.com>

Cc: NIH FOIA <[nihfoia@od.nih.gov](mailto:.nihfoia@od.nih.gov)>

Subject: NIH FOIA Request - Siri 46820

Good Afternoon,

Please see the attached acknowledgment of your NIH FOIA request.

Thank you.

Roger Bordine

Program Assistant
Freedom of Information Office
National Institutes of Health
Building 31, Room 5B35
31 Center Drive
Bethesda, MD 20892

Phone: 301-496-5633

Fax: 301-402-4541

Roger.bordine@nih.gov



EXHIBIT D

Subject: RE: FOIA REQUEST 18F071 IR#0004 Previously FOIA REQUEST 46820
Date: Tuesday, January 30, 2018 at 2:09:55 PM Central Standard Time
From: HRSA FOIA
To: Kimberly Hertz, HRSA FOIA
CC: Aaron Siri

Mr. Pauley and Ms. Hertz,

I apologize for my delay in response as I was out of the office. FOIA requests are handled on a first come first serve basis, unfortunately I am not able to give you a specific time of when your request will be fulfilled. I am able to tell you that your request is with an analyst.

Thank you.

Cindy Perez
FOIA Office
Division of the Executive Secretariat
Health Resources and Services Administration

From: Kimberly Hertz [mailto:khertz@sirillp.com]
Sent: Tuesday, January 30, 2018 9:41 AM
To: HRSA FOIA <FOIA@hrsa.gov>
Cc: Aaron Siri <aaron@sirillp.com>
Subject: Re: FOIA REQUEST 18F071 IR#0004 Previously FOIA REQUEST 46820

Good morning Ms. Perez,

Can you please provide an update on this outstanding FOIA request?

Best,
Kimberly

Kimberly Hertz Stempien, Paralegal
SIRI & GLIMSTAD LLP
200 Park Avenue
Seventeenth Floor
New York, NY 10166
P: 212-532-1091
F: 646-417-5967
www.sirillp.com

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From: William Pauley <wpauley@sirillp.com>
Date: Tuesday, January 23, 2018 at 12:41 PM
To: HRSA FOIA <FOIA@hrsa.gov>
Cc: Aaron Siri <aaron@sirillp.com>, Kimberly Hertz <khertz@sirillp.com>

Subject: FOIA REQUEST 18F071 IR#0004 Previously FOIA REQUEST 46820

Dear Ms. Perez,

I hope this email finds you well. Can you please provide an update to our FOIA request 18F071?

Sincerely,

William

--

William H. Pauley, Law Clerk

SIRI & GLIMSTAD LLP

200 Park Avenue

Seventeenth Floor

New York, NY 10166

P: 212-532-1091

F: 646-417-5967

www.sirillp.com

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From: HRSA FOIA <FOIA@hrsa.gov>

Date: Wednesday, December 27, 2017 at 3:39 PM

To: William Pauley <wpauley@sirillp.com>

Cc: HRSA FOIA <FOIA@hrsa.gov>

Subject: 12.27.17 HRSA FOIA

Mr. Siri,

The NIH FOIA Office has referred your request to our office for a direct response. Please refer to your acknowledgement letter attached.

Thank you.

Cindy Perez

FOIA Office

Division of the Executive Secretariat

Health Resources and Services Administration

EXHIBIT E

Subject: Fwd: 1.31.18 FOIA Final Letter 18F071
Date: Wednesday, January 31, 2018 at 4:14:11 PM Central Standard Time
From: William Pauley
To: Kimberly Hertz
Attachments: 1.31.18 Siri Final Response 18F071.pdf

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From: HRSA FOIA <FOIA@hrsa.gov>
Sent: Wednesday, January 31, 2018 2:54:15 PM
To: William Pauley
Cc: HRSA FOIA
Subject: 1.31.18 FOIA Final Letter 18F071

Mr. Siri,

Your final response letter is attached.

Thank you.

Cindy Perez
FOIA Office
Division of the Executive Secretariat
Health Resources and Services Administration



DEPARTMENT OF HEALTH & HUMAN SERVICES

FOIA Office
Health Resources and
Services Administration
5600 Fishers Lane, Rm. 13N82
Rockville, MD 20857
Telephone: 301-443-2865

January 31, 2018

Sent via email

Aaron Siri
Siri & Glimstad LLP
200 Park Avenue, 17th Floor
New York, NY 10166
WPauley@SiriLLP.com

Re: Freedom of Information Act (FOIA) Case Number 18F071

Dear Mr. Siri:

This is in response to your August 25, 2017 FOIA request which you submitted to the National Institutes of Health (NIH). On December 21, 2017, NIH forwarded your request to this office for a direct response. In summary, you requested all recommendations created after January 1, 2009 to the Secretary of HHS pursuant to 42 U.S.C. §300aa-27(b)(3).

Upon receipt of your request, it was sent to Healthcare Systems Bureau (HSB). HSB reported that the Advisory Commission on Childhood Vaccines (ACCV) advises and makes recommendations to the Secretary of the U.S. Department of Health and Human Services on issues relating to the operation of the National Vaccine Injury Compensation Program. All ACCV reports and recommendations are available publicly, on HRSA website: <https://www.hrsa.gov/advisorycommittees/childhoodvaccines/reportsrecommendations.html>.

If you have any questions regarding your request, please feel free to contact my office at (301) 443-2865 or via email at foia@hrsa.gov.

Sincerely,

DFWallace

For Thomas Flavin
Freedom of Information Act Officer