

EXHIBIT C

FOIA Appeal: Case No. 20-F-0183

Jordan Laris Cohen <jlariscohen@nyclu.org>

Fri 6/12/2020 2:54 PM

To: Kim.Hutchinson@hhs.gov <Kim.Hutchinson@hhs.gov>; foia@acf.hhs.gov <foia@acf.hhs.gov>

 1 attachments (910 KB)

2020-6-12 NYCLU FOIA Appeal.pdf;

Dear Ms. Hutchinson:

Please find attached the New York Civil Liberties Union's FOIA appeal in case number 20-F-0183.

Thank you for your prompt attention to this matter.

Sincerely,

Jordan Laris Cohen

Legal Fellow

Pronouns: he/him

New York Civil Liberties Union

125 Broad St., 19th Floor, New York, N.Y. 10004

212.607.3300, ext. 343

NYCLU

ACLU of New York



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June 12, 2020

Via email to Kim.Hutchinson@hhs.gov, foia@acf.hhs.gov

Kim Hutchinson
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



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Donna Lieberman
Executive Director

Robin Willner
President

Re: Appeal of Constructive Denial in ACF FOIA Case No. 20-F-0183

Dear Ms. Hutchinson:

I write in reference to the Freedom of Information Act (FOIA) request that the New York Civil Liberties Union (NYCLU) submitted to the Administration for Children and Families (ACF) on May 5, 2020 (attached, with cover email, as Exhibit A). That same day, the ACF emailed an acknowledgement of receipt and assigned the request case number 20-F-0183 (attached as Exhibit B). Having received no substantive response from ACF to that request in over 20 business days, the NYCLU hereby appeals ACF's constructive denial of the request, including our request for fee waiver and request for expedited processing.

The NYCLU submitted the FOIA request to ACF via an email to foia@acf.hhs.gov on May 5, 2020. The request sought records concerning the Office of Refugee Resettlement's (ORR) policy change and/or clarification, which occurred on or about February 25, 2020, regarding the terms under which legal service providers (and perhaps also other attorneys or their agents) are permitted to meet with clients in ORR custody. The NYCLU also sought expedited processing of the request, and a fee waiver. A copy of the FOIA request, the email to which I attached the request, and the ACF's acknowledgement of receipt are enclosed for your reference.

The FOIA requires that an agency respond to a records request within 20 business days of receipt. 5 U.S.C. § 662(a)(6)(A)(i). The FOIA and applicable regulations further require that ACF respond to a request for expedited processing within ten days. *Id.* § 552(a)(6)(E)(ii); 45 C.F.R. § 5.27(c). As of today, over 20 business days since receiving the request, ACF has failed to respond to it other than to provide acknowledgement of receipt. ACF's failure to respond timely to the FOIA request, the request for a fee waiver, and the request for expedited processing, constitutes a constructive denial of those requests, which the NYCLU hereby appeals.

The FOIA requires you to render a decision on this appeal within 20 business days of receipt. 5 U.S.C. § 552(a)(6)(A)(ii); 45 C.F.R. § 5.63. Please direct correspondence regarding this appeal to Jordan Laris Cohen (jlariscohen@nyclu.org), New York Civil Liberties Union, 125 Broad Street, 19th Floor, New York, New York 10004.

We await your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Jordan Laris Cohen", is written over a horizontal line.

Jordan Laris Cohen
Legal Fellow

Enclosures