

EXHIBIT A

Siri | Glimstad

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

FREEDOM OF INFORMATION ACT REQUEST

VIA FEDEX AND EMAIL

April 29, 2020

Roger Andoh
Freedom of Information Officer
Centers for Disease Control and Prevention
1600 Clifton Road, N.E., Building 57, Room MS D-54
Atlanta, Georgia 30333
Fax: (404) 235-1852
Email: FOIARequests@cdc.gov

Re: *Nancy Messonnier Emails Regarding COVID-19, November 2019 – Present*
(IR#0281)

Dear Mr. Andoh:

This firm represents the Informed Consent Action Network (“ICAN”). On behalf of ICAN, please provide the following records to foia@sirillp.com in electronic form:

All emails sent or received by Nancy Messonnier between November 1, 2019 and the present that include the term SARS-CoV, COVID, COVID-19 or coronavirus in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

Fees and charges for this search are to be waived pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii) since ICAN is a not-for-profit 501(c)(3) organization and its mission is to raise public awareness about public health safety and provide the public with information to give informed consent regarding related health interventions. As part of its mission, ICAN investigates and disseminates information regarding public health safety issues, including through their website, and through press events and releases. ICAN is seeking the information in this FOIA request to allow it to contribute to its mission. The information requested in this FOIA request 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 or via email at foia@sirillp.com during normal business hours. Thank you for your time and attention to this matter.

Very truly yours,

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Aaron Siri, Esq.

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VIA FEDEX AND EMAIL

April 29, 2020

Roger Andoh
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Centers for Disease Control and Prevention
1600 Clifton Road, N.E., Building 57, Room MS D-54
Atlanta, Georgia 30333
Fax: (404) 235-1852
Email: FOIARequests@cdc.gov

Re: *Robert Redfield Emails Regarding COVID-19, November 2019 – Present*
(IR#0282)

Dear Mr. Andoh:

This firm represents the Informed Consent Action Network (“ICAN”). On behalf of ICAN, please provide the following records to foia@sirillp.com in electronic form:

All emails sent or received by Robert Redfield between November 1, 2019 and the present that include the term SARS-CoV, COVID, COVID-19 or coronavirus in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

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April 29, 2020

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Centers for Disease Control and Prevention
1600 Clifton Road, N.E., Building 57, Room MS D-54
Atlanta, Georgia 30333
Fax: (404) 235-1852
Email: FOIARequests@cdc.gov

Re: *Frank DeStefano Emails Regarding COVID-19, November 2019 – Present*
(IR#0283)

Dear Mr. Andoh:

This firm represents the Informed Consent Action Network (“ICAN”). On behalf of ICAN, please provide the following records to foia@sirillp.com in electronic form:

All emails sent or received by Frank DeStefano between November 1, 2019 and the present that include the term SARS-CoV, COVID, COVID-19 or coronavirus in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

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April 29, 2020

Roger Andoh
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Centers for Disease Control and Prevention
1600 Clifton Road, N.E., Building 57, Room MS D-54
Atlanta, Georgia 30333
Fax: (404) 235-1852
Email: FOIARequests@cdc.gov

Re: *Anne Schuchat Emails Regarding COVID-19, November 2019 – Present*
(IR#0284)

Dear Mr. Andoh:

This firm represents the Informed Consent Action Network (“ICAN”). On behalf of ICAN, please provide the following records to foia@sirillp.com in electronic form:

All emails sent or received by Anne Schuchat between November 1, 2019 and the present that include the term SARS-CoV, COVID, COVID-19 or coronavirus in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

Fees and charges for this search are to be waived pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii) since ICAN is a not-for-profit 501(c)(3) organization and its mission is to raise public awareness about public health safety and provide the public with information to give informed consent regarding related health interventions. As part of its mission, ICAN investigates and disseminates information regarding public health safety issues, including through their website, and through press events and releases. ICAN is seeking the information in this FOIA request to allow it to contribute to its mission. The information requested in this FOIA request will not contribute to any commercial activities.

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Aaron Siri, Esq.

EXHIBIT B



Centers for Disease Control
and Prevention (CDC)
Atlanta GA 30333
May 8, 2020

Aaron Siri
Siri and Glimstad, LLP
200 Park Avenue
Seventeenth Floor
New York, New York 10166
Via email: aaron@sirillp.com

Dear Mr. Siri:

This letter is regarding to your Centers for Disease Control and Prevention and Agency for Toxic Substances and Disease Registry (CDC/ATSDR) Freedom of Information Act (FOIA) request of April 29, 2020, assigned #20-01462-FOIA, for:

All emails sent or received by the following people between November 1, 2019 and the present that include the term SARS-CoV, COVID, COVID-19 or coronavirus in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

- **Robert Redfield**
- **Anne Schuchat**
- **Nancy Messonnier**
- **Frank DeStefano**

This letter is to notify you that you have not submitted a proper FOIA request because your request is overly broad and lacks the specificity needed to assist the agency retrieve the information with a reasonable amount of effort. To assist the agency, locate the records you are requesting, we need you to provide the following additional information:

- Provide the names, titles and domain names of the sender and recipient of the emails you are seeking
- Specify the subject of the emails you are seeking as they relate to - SARS-CoV, COVID, COVID-19 and/or coronavirus
- Provide the name or subject and date of the exact email you are interested
- Provide a narrowed date range
- Consider omitting news clippings and information that is publicly available

As you know, you have requested information from the agency's top personnel involved in the fight against COVID-19 and they generate large volumes of records every day. The key words you have provided as search terms are very common at this point.

Page 2 – Aaron Siri

In order to get you responsive information in the most timely manner possible, we ask that you be as specific as possible about the records/information you seek, rather than asking for broad categories of records containing only the name/nickname of the virus. Searches using only those terms cannot be performed with reasonable effort.

Fees and Fee Waivers

I have determined that your request for a waiver of fees does not meet the following criteria:

- It will not reveal meaningful information about government operations or activities that are not already public knowledge.
- The disclosure of the records will not contribute significantly to public understanding of the operations or activities of the government.
- You have failed to demonstrate that you disseminate information to the public.
- You have failed to provide sufficient information to warrant a waiver of fees.

Fee Category

The FOIA and HHS FOI regulations allow agencies to recover part of the costs of processing FOIA requests. There may be a charge for these records. You have been classified as a:

All Other Requester and as such, you will be charged search fees after two hours and duplication fees. You may also be charged for page duplication if you elect to receive any responsive records in hard copy (10 cents/page).

At this time, your request has been placed on hold until we receive the information requested.

If you fail to submit a proper FOIA request by **June 4, 2020**, we will close your request.

You may contact our FOIA Public Liaison at 770-488-6277 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Page 3 – Aaron Siri

If you are not satisfied with the response to this request, you may administratively appeal by writing to the Deputy Agency Chief FOIA Officer, Office of the Assistant Secretary for Public Affairs, U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue, Suite 729H, Washington, D.C. 20201. You may also transmit your appeal via email to FOIARequest@psc.hhs.gov. Please mark both your appeal letter and envelope “FOIA Appeal.” **Your appeal must be postmarked or electronically transmitted by August 6, 2020.**

Sincerely,

Jonesa Davis
CDC/ATSDR FOIA Office
Office of the Chief Operating Officer
(770) 488-6399
Fax: (404) 235-1852

20-01462-FOIA

EXHIBIT C

Siri | Glimstad

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

CDC FREEDOM OF INFORMATION ACT APPEAL

VIA FEDEX AND EMAIL

May 11, 2020

Deputy Agency Chief FOIA Officer
Office of the Assistant Secretary for Public Affairs
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue
Suite 729H
Washington, D.C. 20201
FOIARequest@psc.hhs.gov

Re: Appeal of FOIA Request No. 20-01462-FOIA (IR#0281 - #0284)

Dear Sir or Madam:

This firm represents the Informed Consent Action Network (“**ICAN**”). On behalf of ICAN, on April 29, 2020, we submitted four requests for records from the files of the Centers for Disease Control and Prevention (“**CDC**”) pursuant to the Freedom of Information Act (5 U.S.C. § 552, as amended) (“**FOIA**”). The CDC combined the requests and assigned them under one number, 20-01462-FOIA (the “**FOIA Request**”). In a letter dated May 8, 2020, the CDC/ATSDR FOIA Officer (the “**CDC Officer**”) responded and stated we had not submitted a proper FOIA Request because the request was overly broad and “lacks the specificity needed to assist the agency retrieve the information with a reasonable amount of effort [*sic*].” ICAN appeals this determination.

A. The FOIA Requests

The First Request

The first April 29, 2020 FOIA Request (the “**First Request**”) sought the following documents:

All emails sent or received by Nancy Messonnier between November 1, 2019 and the present that include the term SARS-CoV, COVID, COVID-19 or coronavirus in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

(Exhibit A.)¹

The Second Request

The second April 29, 2020 FOIA Request (the “**Second Request**”) sought the following documents:

All emails sent or received by Robert Redfield between November 1, 2019 and the present that include the term SARS-CoV, COVID, COVID-19 or coronavirus in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

Id.

The Third Request

The third April 29, 2020 FOIA Request (the “**Third Request**”) sought the following documents:

All emails sent or received by Frank DeStefano between November 1, 2019 and the present that include the term SARS-CoV, COVID, COVID-19 or coronavirus in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

Id.

The Fourth Request

The fourth April 29, 2020 FOIA Request (the “**Fourth Request**”) sought the following documents:

All emails sent or received by Anne Schuchat between November 1, 2019 and the present that include the term SARS-CoV, COVID, COVID-19 or coronavirus in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

Id.

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

B. Correspondence Regarding the FOIA Request

On May 8, 2020, the CDC Officer assigned the FOIA Request #20-01462-FOIA and stated in relevant part:

This letter is to notify you that you have not submitted a proper FOIA request because your request is overly broad and lacks the specificity needed to assist the agency retrieve the information with a reasonable amount of effort. To assist the agency, locate the records you are requesting, we need you to provide the following additional information:

- Provide the names, titles and domain names of the sender and recipient of the emails you are seeking
- Specify the subject of the emails you are seeking as they relate to - SARS-CoV, COVID, COVID-19 and/or coronavirus
- Provide the name or subject and date of the exact email you are interested
- Provide a narrowed date range
- Consider omitting news clippings and information that is publicly available

As you know, you have requested information from the agency's top personnel involved in the fight against COVID-19 and they generate large volumes of records every day. The key words you have provided as search terms are very common at this point.

In order to get you responsive information in the most timely manner possible, we ask that you be as specific as possible about the records/information you seek, rather than asking for broad categories of records containing only the name/nickname of the virus. Searches using only those terms cannot be performed with reasonable effort.

(Exhibit B).

C. Argument

The FOIA Request is Proper and Not Overbroad

A proper FOIA request is one the "reasonably describes" the records sought. 5 U.S.C. § 552(a)(3)(A). "A record is "reasonably described if a professional employee of the agency familiar with the subject matter can locate the records with a reasonable amount of effort." *Freedom Watch, Inc. v. CIA*, CV No. 12-0721, 895 F. Supp. 2d 221, 2012 U.S. Dist. (D.D.C. 2012) (internal citations and quotation marks omitted).

Furthermore, "FOIA's prodisclosure purpose and legislative history reflect an intent to avoid creating loopholes for denial of access and reinforces the duty of federal agencies to construe a FOIA request liberally." *Public Emples. for Env'tl. Responsibility v. United States EPA*, 314 F. Supp. 3d 68, 74-75 (D.D.C. 2018) (internal quotation marks and citations omitted). "A request

reasonably describes records if the agency is able to determine precisely what records are being requested." *Id.* (internal quotation marks and citations omitted). "Once an agency becomes reasonably clear as to the materials desired, FOIA's text and legislative history make plain the agency's obligation to bring them forth and disclose all reasonably segregable, nonexempt portions of the requested record(s)," *Id.* (internal quotation marks and citations omitted).

Here, the FOIA Request reasonably describes the records sought. It relates only to four specifically named people, for a short time period of only a few short months, and seeks only their emails containing one or more of four clear search terms. It is simple and straightforward. It is not broad or sweeping and requires no guesswork on the part of the CDC. Therefore, the FOIA Request creates in CDC the duty to search for and produce the responsive documents. CDC failed to uphold its duty.

D. Appellate Request

Given the foregoing, ICAN hereby appeals and requests that the documents responsive to the FOIA Request be produced within 20 days of this appeal. 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 **foia@sirillp.com**.

Very truly yours,

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Aaron Siri, Esq.

Enclosures

Exhibit A

Siri | Glimstad

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Centers for Disease Control and Prevention
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Atlanta, Georgia 30333
Fax: (404) 235-1852
Email: FOIARequests@cdc.gov

Re: *Nancy Messonnier Emails Regarding COVID-19, November 2019 – Present*
(IR#0281)

Dear Mr. Andoh:

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Fax: (404) 235-1852
Email: FOIARequests@cdc.gov

Re: *Robert Redfield Emails Regarding COVID-19, November 2019 – Present*
(IR#0282)

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Re: *Frank DeStefano Emails Regarding COVID-19, November 2019 – Present*
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Email: FOIARequests@cdc.gov

Re: *Anne Schuchat Emails Regarding COVID-19, November 2019 – Present*
(IR#0284)

Dear Mr. Andoh:

This firm represents the Informed Consent Action Network (“ICAN”). On behalf of ICAN, please provide the following records to foia@sirillp.com in electronic form:

All emails sent or received by Anne Schuchat between November 1, 2019 and the present that include the term SARS-CoV, COVID, COVID-19 or coronavirus in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

Fees and charges for this search are to be waived pursuant to 5 U.S.C. § 552 (a)(4)(A)(iii) since ICAN is a not-for-profit 501(c)(3) organization and its mission is to raise public awareness about public health safety and provide the public with information to give informed consent regarding related health interventions. As part of its mission, ICAN investigates and disseminates information regarding public health safety issues, including through their website, and through press events and releases. ICAN is seeking the information in this FOIA request to allow it to contribute to its mission. The information requested in this FOIA request 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 or via email at foia@sirillp.com during normal business hours. Thank you for your time and attention to this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'ASiri', with a long horizontal stroke extending to the right.

Aaron Siri, Esq.

Exhibit B



Centers for Disease Control
and Prevention (CDC)
Atlanta GA 30333
May 8, 2020

Aaron Siri
Siri and Glimstad, LLP
200 Park Avenue
Seventeenth Floor
New York, New York 10166
Via email: aaron@sirillp.com

Dear Mr. Siri:

This letter is regarding to your Centers for Disease Control and Prevention and Agency for Toxic Substances and Disease Registry (CDC/ATSDR) Freedom of Information Act (FOIA) request of April 29, 2020, assigned #20-01462-FOIA, for:

All emails sent or received by the following people between November 1, 2019 and the present that include the term SARS-CoV, COVID, COVID-19 or coronavirus in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

- **Robert Redfield**
- **Anne Schuchat**
- **Nancy Messonnier**
- **Frank DeStefano**

This letter is to notify you that you have not submitted a proper FOIA request because your request is overly broad and lacks the specificity needed to assist the agency retrieve the information with a reasonable amount of effort. To assist the agency, locate the records you are requesting, we need you to provide the following additional information:

- Provide the names, titles and domain names of the sender and recipient of the emails you are seeking
- Specify the subject of the emails you are seeking as they relate to - SARS-CoV, COVID, COVID-19 and/or coronavirus
- Provide the name or subject and date of the exact email you are interested
- Provide a narrowed date range
- Consider omitting news clippings and information that is publicly available

As you know, you have requested information from the agency's top personnel involved in the fight against COVID-19 and they generate large volumes of records every day. The key words you have provided as search terms are very common at this point.

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In order to get you responsive information in the most timely manner possible, we ask that you be as specific as possible about the records/information you seek, rather than asking for broad categories of records containing only the name/nickname of the virus. Searches using only those terms cannot be performed with reasonable effort.

Fees and Fee Waivers

I have determined that your request for a waiver of fees does not meet the following criteria:

- It will not reveal meaningful information about government operations or activities that are not already public knowledge.
- The disclosure of the records will not contribute significantly to public understanding of the operations or activities of the government.
- You have failed to demonstrate that you disseminate information to the public.
- You have failed to provide sufficient information to warrant a waiver of fees.

Fee Category

The FOIA and HHS FOI regulations allow agencies to recover part of the costs of processing FOIA requests. There may be a charge for these records. You have been classified as a:

All Other Requester and as such, you will be charged search fees after two hours and duplication fees. You may also be charged for page duplication if you elect to receive any responsive records in hard copy (10 cents/page).

At this time, your request has been placed on hold until we receive the information requested.

If you fail to submit a proper FOIA request by **June 4, 2020**, we will close your request.

You may contact our FOIA Public Liaison at 770-488-6277 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

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If you are not satisfied with the response to this request, you may administratively appeal by writing to the Deputy Agency Chief FOIA Officer, Office of the Assistant Secretary for Public Affairs, U.S. Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue, Suite 729H, Washington, D.C. 20201. You may also transmit your appeal via email to FOIARequest@psc.hhs.gov. Please mark both your appeal letter and envelope “FOIA Appeal.” **Your appeal must be postmarked or electronically transmitted by August 6, 2020.**

Sincerely,

Jonesa Davis
CDC/ATSDR FOIA Office
Office of the Chief Operating Officer
(770) 488-6399
Fax: (404) 235-1852

20-01462-FOIA

EXHIBIT D



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

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

Case No. 2020-00199-A-PHS

May 12, 2020

Mr. Aaron Siri
Attorney
Siri & Glimstad
200 Park Avenue - 17th Floor
New York, NY 10166
Sent via email: foia@sirillp.com

Dear Mr. Aaron Siri:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) appeal, submitted to the Department of Health and Human Services (HHS), FOI/Privacy Acts Division. We received your appeal on **May 11, 2020**. Your appeal challenges the *Centers for Disease Control and Prevention (CDC's)* response to your original request **CDC # 20-01462-FOIA**. Your appeal has been assigned the above-stated case number based on when it was received in this office. Please reference this number on your correspondence.

Your appeal is summarized below:

“Appeal of CDC FOIA Request No. 20-01462-FOIA (IR#0281 - #0284)”.

Pursuant to 45 CFR 5.35 (c) your appeal falls under “unusual circumstances” in that our office will need to consult with another office or agency that has substantial interest in the determination of the appeal. The actual processing time will depend on the complexity of the issues presented in the appeal and consultation with other U.S. Department of Health and Human Services (HHS) components involved. For more information about how your appeal will be processed please see 45 CFR 5.34 <http://www.hhs.gov/foia/45cfr5.html>.

In addition, due to the COVID-19 National Emergency, many staff have been reassigned to tasks aimed at responding to that Emergency and virtually all staff are teleworking, making access to certain records more difficult. As a result, processing of FOIA requests will take longer than would usually be the case. We will utilize a 10 working day extension to process your request, as permitted pursuant to the FOIA. This policy is consistent with court decisions regarding FOIA’s time limits.

The FOIA and the HHS FOIA regulations are available at the following web addresses:
<http://www.justice.gov/oip/doj-foia-regulations> and <http://www.hhs.gov/foia/45cfr5.html>.

If you have any questions, please call (202) 260-6933, or email us at foiarequest@psc.hhs.gov.

Sincerely yours,

Brandon J. Gaylord
Director
FOI/Privacy Act Division