

FREEDOM OF INFORMATION ACT REQUEST
EXPEDITED PROCESSING REQUESTED

VIA ONLINE PORTAL

August 20, 2021

Gorka Garcia-Malene
Freedom of Information Act Officer
National Institutes of Health
Building 31 Room 5B35
9000 Rockville Pike
Bethesda, Maryland 20892

Re: *Documents Regarding the 2015 Paper (IR#0545)*

Dear Mr. Garcia-Malene:

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:

At a July 20, 2021 Senate hearing at which Dr. Anthony Fauci (“Dr. Fauci”) appeared and had an exchange with Senator Rand Paul (“Senator Paul”) regarding a paper titled *A SARS-like cluster of circulating bat coronaviruses shows potential for human emergence* (the “paper”),¹ Dr. Fauci stated: “This paper that you are referring to was judged by qualified staff up and down the chain as not being gain-of-function.”²

Please provide any and all documents reflecting the judgment and/or conclusions by the “qualified staff” to which Dr. Fauci was referring which concluded that the paper is “not ... gain-of-function.”

Expedited Processing

ICAN requests expedited processing for this request. FOIA provides for “expedited processing of requests for records” upon a showing of “compelling need.” 5 U.S.C.

¹ The exchange referred to above can be viewed at <https://www.youtube.com/watch?v=IqUOcVwRUtc> (last visited 8/19/2021).

² A copy of the paper can be viewed here <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4797993/> (last visited 8/19/2021).

§ 552(a)(6)(E)(i)(II). When the person requesting information is “primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity” constitutes a “compelling need” for expedited processing. 5 U.S.C. § 552(a)(6)(E)(v)(II).

ICAN is a non-profit organization that advocates for informed consent. ICAN’s mission is to raise public awareness about public health and safety and to provide the public with information to give informed consent regarding related health interventions and precautions. As part of its mission, ICAN disseminates information to an audience of more than 5 million people. Therefore, ICAN is “primarily engaged in disseminating information to the general public.” Further, as explained below, there is an “urgency to inform the public concerning actual or alleged Federal Government activity.” Accordingly, expedited processing of this request is warranted.

Dr. Fauci is the Director of The National Institute of Allergy and Infectious Diseases (“**NIAID**”). NIAID is an institute within NIH. The NIH claims that one of its goals is “to exemplify and promote the highest level of scientific integrity, public accountability, and social responsibility in the conduct of science.”³

Dr. Fauci, as Director of NIAID, is one of the most prominent public health officials in the country.⁴ He has played and continues to play a critical role in the country’s response to the SARS-CoV-2 pandemic, frequently appearing across all mainstream media outlets to discuss issues regarding the pandemic.⁵ His appearances and statements regarding the pandemic, including his agency’s role in the potential etiology and funding of SARS-CoV-2,⁶ is of ongoing, immediate, and intense public interest in the media, the scientific community, and the public at large.

³ <https://www.nih.gov/about-nih/what-we-do/mission-goals> (last visited 8/18/2021).

⁴ See, e.g., <https://thehill.com/homenews/administration/554617-jill-biden-recognizes-dr-fauci-as-an-american-hero> (quoting Jill Biden referring to Dr. Fauci as an “American hero”).

⁵ See, e.g., <https://www.npr.org/sections/coronavirus-live-updates/2021/08/10/1026384528/fauci-teachers-vaccination-mandates-schools-students-covid> (quoting Dr. Fauci stating “I think we should [require teacher vaccinations]”) (last visited 8/18/2021); https://edition.cnn.com/us/live-news/coronavirus-pandemic-vaccine-updates-08-12-21/h_6b660bfe77c9a0a242cbe2171bb9b489 (discussing booster shots) (last visited 8/18/2021); <https://www.cnbc.com/2021/08/19/fauci-says-us-is-expanding-covid-vaccine-manufacturing-to-donate-shots-to-the-world.html> (discussing donating SARS-CoV-2 vaccines to other countries) (last visited 8/18/2021); <https://www.cnn.com/2021/07/25/politics/anthony-fauci-covid-19-unvaccinated-cnntv/index.html> (quoting Dr. Fauci saying that the United States is “going in the wrong direction”); <https://www.9news.com/video/news/nation-world/dr-fauci-addresses-delta-covid-variant-vaccine-efficiency/507-0bb21a1b-bcec-406f-846b-dcb903a77e6b> (discussing infection with SARS-CoV-2 after vaccination) (last visited 8/18/2021); <https://news.yahoo.com/cdc-didn-t-change-anthony-000430540.html> (quoting Dr. Fauci saying that “[t]he CDC hasn’t changed, and the CDC hasn’t really flip-flopped at all”) (last visited 8/18/2021).

⁶ See, e.g., <https://nypost.com/2021/05/25/fauci-admits-nih-funding-of-wuhan-lab-denies-gain-of-function/> (admitting “a modest collaboration with very respectable Chinese scientists who were world experts on coronavirus”) (last visited 8/18/2021).

During a Senate hearing on July 20, 2021, Senator Paul accused Dr. Fauci of lying when he testified at a prior Congressional hearing⁷ that the NIH never funded gain-of-function⁸ research at the Wuhan Institute of Virology (the “**Wuhan Lab**”). Senator Paul held up the paper, which made plain that NIH had funded research at the Wuhan Lab that Senator Paul claims meets the definition of gain-of-function. Instead of admitting his prior statement was inaccurate, Dr. Fauci doubled down by stating that the “paper that you are referring to was judged by qualified staff up and down the chain as not being gain-of-function.” Dr. Fauci also told Senator Paul that he did “not know what [he was] talking about.”

Like all of Dr. Fauci’s comments relating to the pandemic, his comments to Senator Paul at the above-referenced congressional hearings regarding the Wuhan Lab, gain-of-function research and the 2015 Paper received media coverage across the largest mainstream media platforms, including CNN,⁹ Fox News,¹⁰ Forbes,¹¹ Business Insider,¹² NBC News,¹³ Yahoo News,¹⁴ Washington Examiner,¹⁵ Newsweek,¹⁶ BBC News,¹⁷ and others.¹⁸ In fact, the story is still being discussed today.¹⁹

The coronavirus pandemic has dominated the media for the last 18 months, and there is no indication that the pandemic will end anytime soon.²⁰ As such, all aspects of the pandemic, including the government’s response to and the origins of SARS-CoV-2, are a matter of substantial and ongoing public interest. The public’s interest in and need to understand the origins of SARS-

⁷ The relevant portion of the prior congressional hearing, which occurred on May 11, 2021, can be viewed at <https://www.c-span.org/video/?c4962333/senator-paul-dr-fauci-clash-research-funding-wuhan-lab> (last visited 8/18/2021).

⁸ According to the NIH, gain-of-function research is “a type of research that modifies a biological agent so that it confers new or enhanced activity to that agent.” <https://www.nih.gov/news-events/gain-function-research-involving-potential-pandemic-pathogens> (last visited 8/18/2021).

⁹ <https://www.cnn.com/2021/07/20/politics/anthony-fauci-rand-paul-debate/index.html> (8/18/2021).

¹⁰ <https://foxnews.com/media/sen-rand-paul-torches-fauci-explains-asking-doj-referral> (last visited 8/18/2021).

¹¹ <https://www.forbes.com/sites/joewalsh/2021/07/20/fauci-and-rand-paul-accuse-each-other-of-lying-in-tense-testimony-over-covid-origins/?sh=7aefca604c73> (last visited 8/18/2021).

¹² <https://www.businessinsider.com/fauci-rand-paul-you-do-not-know-what-talking-about-2021-7> (last visited 8/18/2021).

¹³ <https://www.nbcnews.com/politics/congress/fauci-blasts-rand-paul-s-wuhan-lab-funding-claim-you-n1274489> (last visited 8/18/2021).

¹⁴ <https://news.yahoo.com/rand-paul-accuses-fauci-lying-152837337.html> (last visited 8/18/2021).

¹⁵ <https://www.washingtonexaminer.com/opinion/bet-on-rand-paul-against-anthony-fauci> (last visited 8/18/2021).

¹⁶ <https://www.newsweek.com/sen-rand-paul-dr-fauci-right-about-gain-function-research-funding-wuhan-1612371> (last visited 8/18/2021).

¹⁷ <https://www.bbc.com/news/57932699> (last visited 8/18/2021).

¹⁸ A list of other sources covering this story is attached as **Exhibit A**.

¹⁹ <https://www.talkofnews.com/2021/08/20/must-read-coronavirus-censorship-paul-vs-fauci/> (last visited 8/20/2021).

²⁰ See generally <https://www.cnbc.com/2021/08/05/dr-fauci-things-will-get-worse-amid-covid-delta-surge-unvaccinated.html> (quoting Dr. Fauci stating that “[t]hings are going to get worse.”) (last visited 8/18/2021).

CoV-2 are intensified by allegations that the United States government may have funded gain-of-function research at the Wuhan Lab, which research may have led to the origin of SARS-CoV-2 and the death of more than 600,000 Americans. Given the fact that SARS-CoV-2 was first detected in Wuhan,²¹ the current unfolding story regarding the U.S. government's funding of the Wuhan Lab is of critical public importance. ICAN seeks to disseminate the requested information to the public as expeditiously as possible.

ICAN certifies that the information in this request is true and correct to the best of ICAN's knowledge and belief.

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,



Aaron Siri, Esq.
Elizabeth A. Brehm, Esq.
Gabrielle G. Palmer, Esq.

²¹ <https://pubmed.ncbi.nlm.nih.gov/32030925/> (last visited 8/20/2021).

Exhibit A

List of Articles

Chris Sims, *What is gain-of-function research? Here's what Rand Paul and Dr. Fauci are fighting over*, Louisville Courier Journal (Jul. 23, 2021), available at <https://www.courier-journal.com/story/news/politics/rand-paul/2021/07/23/rand-paul-anthony-fauci-video-gain-function-kentucky-covid/8070309002/> (last visited 8/20/2021).

GOP lawmaker calls for Wuhan probe to 'prevent the next pandemic, The Hill (May 13, 2021) available at <https://thehill.com/hilltv/rising/553406-rep-mike-gallagher-wuhan-investigation-is-needed-or-well-never-be-able-to> (last visited 8/20/2021).

Robert Mackey, *Rand Paul's Attack in Anthony Fauci Chills Scientific Debate Over Gain-of-Function Research*, The Intercept (Jul. 27, 2021), available at <https://theintercept.com/2021/07/27/covid-anthony-fauci-rand-paul-research/> (last visited 8/20/2021).

Reality Check Team, *Coronavirus: Was US money used to fund risky research in China?*, BBC News (Aug. 2, 2021), available at <https://www.bbc.com/news/57932699> (last visited 8/20/2021).

Libby Cathey and Sasha Pezenik, *Fauci, Rand Paul get in shouting match over Wuhan lab COVID research*, ABC News (Jul. 21 2021), available at <https://abc7chicago.com/fauci-rand-paul-video-exchange-covid-wuhan-lab-senator-and-dr/10901142/> (last visited 8/20/2021).

Fauci and U.S. Funding for the Wuhan Lab, Wall Street Journal Opinion (Aug. 1, 2021), available at <https://www.wsj.com/articles/fauci-wuhan-lab-funding-gain-of-function-11627684856> (last visited 8/20/2021).

Emily Kopp, *Experts weigh in on risky Wuhan study that Fauci, Paul debated*, Roll Call (Jul. 23, 2021) available at <https://www.rollcall.com/2021/07/23/experts-weigh-in-on-risky-wuhan-study-that-fauci-paul-debated/> (last visited 8/20/2021).

Brandon Jarrett, *Sen. Rand Paul: Fauci not honest about Wuhan Lab funding, COVID-19 origins*, ABC News WBKO (Jul. 22, 2021) available at <https://www.wbko.com/2021/07/22/sen-rand-paul-fauci-not-honest-about-wuhan-lab-funding-covid-19-origins/> (last visited 8/20/2021).

Rich Mendez, *'If anybody is lying here, senator, it is you,' Fauci tells Sen. Paul in heated exchange at Senate hearing*, CNBC (Jul. 20, 2021), available at <https://www.cnbc.com/2021/07/20/if-anybody-is-lying-here-senator-it-is-you-fauci-tells-sen-paul-in-heated-exchange-at-senate-hearing.html> (last visited 8/20/2021).

Teaganne Finn, *Fauci blasts Rand Paul's Wuhan lab funding claim: 'You do not know what you're talking about'*, NBC News (Jul. 20, 2021), available at <https://www.nbcnews.com/politics/congress/fauci-blasts-rand-paul-s-wuhan-lab-funding-claim-you-n1274489> (last visited 8/20/2021).

Mark Moore, *Fauci, Rand Paul clash over 'gain-of-function' research at Wuhan lab in China*, NY Post (Jul. 20, 2021), available at <https://nypost.com/2021/07/20/fauci-sen-paul-clash-over-gain-of-function-research-at-wuhan-lab-in-china/> (last visited 8/20/2021).

Senator Paul and Dr. Fauci Clash Over Research Funding of Wuhan Lab, C-SPAN (May 11, 2021), available at <https://www.c-span.org/video/?c4962333/senator-paul-dr-fauci-clash-research-funding-wuhan-lab> (last visited 8/20/2021).

Jack Brewster, *Fauci And Sen. Rand Paul Spar Over Wuhan Lab Research And Covid-19 Origin*, Forbes (May 11, 2021), available at <https://www.forbes.com/sites/jackbrewster/2021/05/11/fauci-and-sen-rand-paul-spar-over-wuhan-lab-research-and-covid-19-origin/?sh=bfbfdfa1df95> (last visited 8/20/2021).

Jordan Mendoza, *Rand Paul accused Anthony Fauci of lying to Congress about COVID-19 origins. Then, it got loud*, USA Today (Jul. 20, 2021), available at <https://www.usatoday.com/story/news/politics/2021/07/20/anthony-fauci-rand-paul-covid-origins/8027390002/> (last visited 8/20/2021).

Nathaniel Weixel, *Rand Paul clashes with Fauci over coronavirus origins*, The Hill (May 11, 2021), available at <https://thehill.com/policy/healthcare/552857-rand-paul-clashes-with-fauci-over-coronavirus-origins> (last visited 8/20/2021).

Tyler Olson, *Fauci, Rand Paul trade 'lying' accusations about gain-of-function research in hearing on Delta variant*, Fox News (Jul. 20, 2021), available at <https://www.foxnews.com/politics/fauci-walensky-masks-virus-rules-delta-covid-spread-senate-hearing> (last visited 8/20/2021).

Fauci, Paul clash on virus origins, trade charges of lying, AP News (Jul. 20, 2021), available at <https://apnews.com/article/science-health-government-and-politics-coronavirus-pandemic-ec75a3b9505409e12aa6f65d3170ad26> (last visited 8/20/2021).

Angela Fu, *United Facts of America: Dr. Anthony Fauci disputes Sen. Rand Paul on Wuhan lab*, Politifact (May 11, 2021), available at <https://www.politifact.com/article/2021/may/11/united-facts-america-fauci-disputes-sen-rand-paul/> (last visited 8/20/2021).

Bess Levin, *Anthony Fauci Once Again Forced to Basically Call Rand Paul a Sniveling Moron*, Vanity Fair (Jul. 21, 2021), available at <https://www.vanityfair.com/news/2021/07/anthony-fauci-rand-paul-covid-19> (last visited 8/20/2021).

Zachary Basu, *Fauci and Rand Paul clash over NIH funding for Wuhan Institute of Virology*, Axios (May 11, 2021), available at <https://www.axios.com/fauci-rand-paul-wuhan-lab-coronavirus-eff1bb08-f6c7-4d63-b170-c49e87c2e3dd.html> (last visited 8/20/2021).

Zachary Evans, *Rand Paul Accuses Fauci of Lying to Congress about Gain-of-Function Research Funding*, Yahoo News (Jul. 20, 2021), available at <https://>

www.yahoo.com/now/rand-paul-accuses-fauci-lying-152837337.html (last visited 8/20/2021).

David Smith, *'If anybody is lying here, it is you': Fauci turns tables on inquisitor Rand Paul*, The Guardian (Jul. 20, 2021), available at <https://www.theguardian.com/us-news/2021/jul/20/anthony-fauci-rand-paul-coronavirus-research> (last visited 8/20/2021).

Tim Hains, *Rand Paul And Dr. Fauci Call Each Other Liars About Gain-Of-Function Research At Wuhan Lab*, Real Clear Politics (Jul. 20, 2021), available at https://www.realclearpolitics.com/video/2021/07/20/rand_paul_and_dr_fauci_call_each_other_liars_about_gain-of-function_research_at_wuhan_lab.html (last visited 8/20/2021).

Dialynn Dwyer, *Anthony Fauci and Rand Paul clash over Wuhan lab, origin of COVID-19*, Boston.com (May 12, 2021), available at <https://www.boston.com/news/coronavirus/2021/05/12/anthony-fauci-rand-paul-clash-wuhan-lab-covid-19-origin-video/> (last visited 8/20/2021).

Chris Moriss, *Dr. Fauci to Sen. Rand Paul: 'If anybody is lying here, it is you'*, Fortune (Jul. 20, 2021), available at <https://fortune.com/2021/07/20/dr-fauci-vs-rand-paul-testimony-hearing-today/> (last visited 8/20/2021).

Elizabeth Wright, *Sen. Rand Paul Grills Dr. Fauci on NIH Grants and Wuhan Institute of Virology*, CAGW (May 17, 2021), available at <https://www.cagw.org/thewastewatcher/sen-rand-paul-grills-dr-fauci-nih-grants-and-wuhan-institute-virology-0> (last visited 8/20/2021).

David Catanese, *In ongoing fight with Fauci, Rand Paul sees only a political upside*, McClatchy (Jul. 21, 2021), available at <https://www.mcclatchydc.com/news/politics-government/article252934408.html> (last visited 8/20/2021).

Tom Tapp, *Fauci Rips Into Rand Paul During Televised Hearing: "Senator Paul, You Do Not Know What You Are Talking About, And I Want To Say That Officially"*, Deadline (Jul. 20, 2021), available at <https://deadline.com/2021/07/fauci-rand-paul-covid-wuhan-hearing-1234796719/> (last visited 8/20/2021).

Melissa Healy, *Fauci: 'There's no way' the coronavirus was made with U.S. research funds. Here's why*, LA Times (Jul. 24, 2021), available at <https://www.latimes.com/science/story/2021-07-24/fauci-theres-no-way-the-coronavirus-was-made-with-u-s-research-funds-heres-why> (last visited 8/20/2021).

John Haltiwanger, *Fauci to Sen. Rand Paul: 'You do not know what you're talking about, quite frankly, and I want to say that officially'*, Business Insider (Jul. 20, 2021), available at <https://www.businessinsider.com/fauci-rand-paul-you-do-not-know-what-talking-about-2021-7> (last visited 8/20/2021).