



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

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

September 22, 2023

Appeal No.: 2022-00244-A-PHS
Original Case No: CDC/ATSDR Request No. 22-00096-FOIA

Informed Consent Action Network
c/o Siri & Glimstad LLP
200 Park Ave
17th Floor
New York, NY 10166
Via email: foia@sirillp.com

Dear Mr. Aaron Siri,

This letter is in reference to your August 17, 2022, Freedom of Information Act (FOIA) administrative appeal on behalf of your client Informed Consent Action Network (ICAN). On October 15, 2021, you submitted a FOIA request on behalf of ICAN to the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry (CDC/ATSDR) seeking the following records:

“An unredacted copy of the “Data Use Agreement” between the Centers for Disease Control and Prevention and the State of California referenced in the letter dated September 8, 2021, from Roger Andoh to Elizabeth Brehm, a copy of which is attached hereto as Exhibit A.”

On July 20, 2022, the CDC/ATSDR FOIA Office provided you with a final response stating that “A search of our records failed to reveal any documents pertaining to your request. The CDC Emergency Operations Center (EOC) does not have an official Data Use Agreement between the Centers for Disease Control and Prevention and the State of California on record.”

On August 17, 2022, you filed an administrative appeal regarding the adequacy of the search, stating that the ““CDC has failed to conduct an adequate search of the requested records.... First, CDC failed to specify what records were searched, by whom, and through what process. ... Second, there is a positive indication of overlooked materials because the very record CDC failed to find during its search is the same record the CDC cited to deny ICAN access to records for two different FOIA requests. In #21-01574-FOIA and #21-01584-FOIA, CDC denied responsive records on the basis that “[t]he CDC has a Data Use Agreement with California and other states.”

After reviewing your appeal, I have decided to remand your initial request (CDC No. 2022-00096-FOIA) back to the CDC/ATSDR FOIA Office for further processing. On remand, additional searches will be conducted for records responsive to your request and a revised response will be issued. Should any portion of the revised response qualify as an adverse determination, reissued appeal rights will be provided to you, as well.

Siri 2022-00244-A-PHS

This letter constitutes the final decision of the Department regarding your appeal. If at any point in the FOIA process you need assistance with the processing of your request, you may contact the OS FOIA Office's FOIA Public Liaison. This individual can assist you in the processing of your request, increasing transparency and understanding of the status of your request, and assisting to resolve any FOIA disputes. The OS FOIA Office's FOIA Public Liaison can be reached using the following contact information:

Beth Kramer
HHS FOIA Public Liaison
U.S. Department of Health and Human Services
Office of the Assistant Secretary for Public Affairs
E-mail: [HHS FOIA Public Liaison@hhs.gov](mailto:HHS_FOIA_Public_Liaison@hhs.gov)

If you wish, you may seek judicial review in the district court of the United States in the district where you reside or have your principal place of business, in which the agency records are located, or in the District of Columbia.

Finally, you may seek assistance with the processing of your request from the Office of Government Information Services (OGIS). OGIS serves as the Federal FOIA ombudsman and assists requesters and agencies to prevent and resolve FOIA disputes through mediation. You may contact OGIS via e-mail at ogis@nara.gov.

Sincerely,



Alesia Y. Williams
Director, FOIA Appeals and Litigation
Department of Health and Human Services

Copy to:
CDC/ATSDR FOIA Officer