

FREEDOM OF INFORMATION ACT REQUEST

SUBMITTED VIA ONLINE PORTAL

October 15, 2021

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
FOIARequests@cdc.gov

Re: Data Use Agreement with the State of California (IR#0577)

Dear Sir or Madam:

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:

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.

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 its mission, ICAN actively investigates and disseminates information regarding vaccine safety issues, including through its website, and through press events and releases. ICAN is seeking the information in this FOIA request to allow it to contribute to the public understanding of the government’s vaccine safety programs, including the government’s efforts to promote vaccine safety. The information ICAN is 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,

/s/ Gabrielle G. Palmer
Gabrielle G. Palmer, Esq.

Enclosure: as stated.

Exhibit A



September 08, 2021

SENT VIA EMAIL

Elizabeth Brehm
Attorney
Siri & Glimstad
200 Park Avenue, 17th Floor
New York, New York 10166
foia@sirillp.com

Dear Ms. Brehm:

The Centers for Disease Control and Prevention and Agency for Toxic Substances and Disease Registry (CDC/ATSDR) received your clarified July 16, 2021, Freedom of Information Act (FOIA) request on July 16, 2021, seeking:

“All de-identified documents received by the CDC from the California Department of Public Health, or from any other California entity, relating to cases of COVID-19 Vaccine breakthrough infections.”

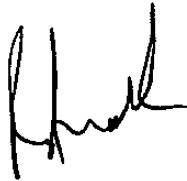
The CDC Emergency Operations Center (EOC) relayed the following:

The CDC has a Data Use Agreement with California and other states. The agreement precludes CDC from providing state data that is voluntarily reported to CDC. If information exists regarding the subject of this request, we suggest you contact the California Department of Public Health directly using <https://www.cdph.ca.gov/>. To obtain other state data, you can use this link <https://www.cdc.gov/publichealthgateway/healthdirectories/healthdepartments.html> to access state public health websites.

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.

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 December 07, 2021.

Sincerely,

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

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

#21-01574-FOIA