

## **NIH FREEDOM OF INFORMATION ACT REQUEST**

**VIA ONLINE PORTAL**

March 27, 2023

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

Re: *Grant Application for Project Number 1C06OD032019-01 (IR#1019A)*

Dear Sir or Madam:

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

**The summary statement and grant application for Project Number 1C06OD032019-01, titled “Establishment of the Bat Resource Center for the Study of Zoonotic Diseases”, awarded to Colorado State University on September 20, 2021.<sup>1</sup>**

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 news media organization whose mission is to raise public awareness about vaccine safety and other medical treatments, and to provide the public with information to give informed consent. (**Attachment A.**) Recently, ICAN has expanded its mission to include investigating the origins of COVID-19. As part of its mission, ICAN investigates and disseminates scientifically based information on a vast array of health-related topics. ICAN is seeking the information in this FOIA request to allow it to contribute to the public understanding of zoonotic diseases, the research associated with these diseases, and any potential health risks associated with such research. The information ICAN is requesting will not contribute to any commercial activities. The information will be distributed for free through ICAN’s website,<sup>2</sup> its weekly health news and talk show,<sup>3</sup> and through press events and releases. Therefore, ICAN should be properly categorized as a media requester, and it is entitled to the search and processing privileges

<sup>1</sup> <https://reporter.nih.gov/project-details/10374306>.

<sup>2</sup> <https://www.icandecide.org/>.

<sup>3</sup> <https://thehighwire.com/>.

associated with such a category designation. Accordingly, ICAN will be forced to challenge any agency decision that categorizes it as any other category of requester.

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 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 take further administrative or legal action.

Furthermore, we specifically request that the agency provide us with an estimated date of completion for this request.

If you would like to discuss our request or any issues raised in this letter, please feel free to contact us at (212) 532-1091 or [foia@sirillp.com](mailto:foia@sirillp.com) during normal business hours. Thank you for your time and attention to this matter.

Very truly yours,

/s/ Aaron Siri

Aaron Siri, Esq.

Elizabeth A. Brehm, Esq.

Colin M. Farnsworth Esq.

# Attachment A

DECLARATION OF CATHARINE LAYTON

STATE OF TEXAS

COUNTY OF Hays

I, Catharine Layton, being duly sworn on oath do say:

1. I am the Chief Operating Officer of the Informed Consent Action Network (ICAN), a not-for-profit 501(c)(3) organization whose mission is to disseminate scientific health information to the public.

2. I have been an officer of ICAN since its founding in 2016. I oversee all day-to-day operations of the organization and all ICAN's programs. Together with our CEO and Board, I ensure that all efforts are focused on our mission statement and ensure that ICAN stays in compliance with all required rules and regulations.

3. In pursuit of its mission, ICAN relies primarily on its own investigative reporting. ICAN is both instrumental in orchestrating cutting edge investigations into the safety of various medical products, as well as widely disseminating its findings through various media channels. Most notably, ICAN's popular website hosts the organization's largest education program, The HighWire with Del Bigtree. Utilizing its media teams' 40+ years of experience in TV production and investigative journalism, The HighWire provides hours of new video content to the public each week for free.

4. The HighWire website has approximately 3.4 million weekly visitors. On Twitter, The HighWire has approximately 140,000 followers and 1 to 2.5 million impressions in a 28-day period. Between Rumble and Bitchute, The HighWire has approximately 60,000 followers and growing. Additionally, ICAN has 29,000 text subscribers and 194,245 email subscribers.

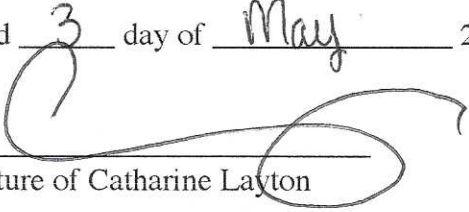
5. The size of ICAN's audience and subscribers continues to grow and is illustrative of the wide public interest in the subject of health and medical safety. Moreover, critical to ICAN's mission is its proven ability to find and review critical scientific and governmental records and meaningfully report about their social impacts.

6. One of the tools ICAN uses to gather the raw material it uses in its popular investigative reporting is the Freedom of Information Act (FOIA).

7. ICAN uses records it obtains from its FOIA requests to carry out its public mission and support its role as a non-profit news-media organization in the field of health and medical safety, but as a non-profit, ICAN does not have a commercial interest in the records it seeks through FOIA.

8. Based on what I know as the Chief Operating Officer, as well what has been demonstrated by ICAN's past and current investigative reporting, for purposes of FOIA's Fee Waiver provisions, ICAN certainly qualifies as a "representative of the news media."

Signed 3 day of May 2022

  
Signature of Catharine Layton

I, Amy Blackwell Notary public for the state of Texas witnessed  
said Catharine Layton sign the above statement this 3 day of May, 2022  
(month)

Notary Public for 

