



October 12, 2022

FOIA OFFICE,
Centers for Disease Control & Prevention/
National Center for Emerging and Zoonotic Infectious Diseases
Division of Healthcare Quality Promotion

VIA CDC'S ONLINE FOIA PUBLIC ACCESS LINK

To Whom it May Concern:

Children's Health Defense (CHD) is a non-profit made up of public health professionals, medical professionals, lawyers, scientists, and journalists. CHD's mission includes disseminating public health information and data, which CHD does through its publication,¹ website,² newsletter, press briefings, media channel,³ and social media platforms.⁴

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA") and the implementing regulations of your agency, 45 C.F.R Part 5, CHD requests the records listed below.

For the purposes of this request, "relevant individuals" means any of the following individuals: (1) anyone who worked in the Centers for Disease Control/National Center for Emerging and Zoonotic Infections Diseases' Immunization Safety Office (ISO) between October 1, 2020 and April 30, 2021; and (2) CDC Director Rochelle Walensky.

Request: For the time period from October 1, 2020 and April 30, 2021, please provide all emails sent by any of the relevant individuals or received by any of the relevant individuals (whether directly or via cc or bcc) containing the search word "myocarditis."

¹ See <https://childrenshealthdefense.org/defender/>

² See <https://childrenshealthdefense.org/>

³ See CHD.TV <https://live.childrenshealthdefense.org/>

⁴ See <https://www.facebook.com/ChildrensHealthDefense>, <https://twitter.com/ChildrensHD>, <https://rumble.com/user/childrenshealthdefense>.

Guidance Regarding the Search and Processing of Requested Records

In connection with its request for records, CHD provides the following guidance regarding the scope of the records sought and the search and processing of records:

- Please search all locations, CDC departments and systems likely to have responsive records, regardless of format, medium, or physical characteristics.
- Please use all tools available to your agency to conduct a complete and efficient search for potentially responsive records. Agencies are subject to government-wide requirements to manage agency information electronically,⁵ and many agencies have adopted the National Archives and Records Administration (NARA) Capstone program, or similar policies. These systems provide options for searching emails and other electronic records in a manner that is reasonably likely to be more complete than just searching individual custodian files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency's archiving tools may capture that email under Capstone. At the same time, custodian searches are still necessary; agencies may not have direct access to files stored in PST files, outside of network drives, in paper format, or in personal email accounts.
- In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably searchable non-exempt portions of the requested records. Please also describe any redacted, deleted, or withheld material in detail and specify the statutory basis for the denial as well and the reasons that statutory basis applies.
- If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.
- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.
- 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 appeals and litigation. CHD reserves all rights to appeal the withholding or deletion of any information.

⁵ Presidential Memorandum—Managing Government Records, 76 Fed. Reg. 75,423 (Nov. 28, 2011), <https://obamawhitehouse.archives.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>; Office of Mgmt. & Budget, Exec. Office of the President, Memorandum for the Heads of Executive Departments & Independent Agencies, "Managing Government Records Directive," M-12-18 (Aug. 24, 2012), <https://www.archives.gov/files/records-mgmt/m-12-18.pdf>.

Request for Fee Waiver

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and your agency's regulations, CHD requests a waiver of fees associated with processing this request for records.

The subject of this request concerns the operations of the federal government—specifically, the taxpayer-funded CDC—and the disclosures are in the public interest, because they will likely contribute significantly to the general public's understanding of relevant government operations and activities.

There has been considerable public discussion of and controversy about how to weigh the risk of myocarditis that is associated with COVID-19 vaccines.⁶ The public has a significant interest in having a full understanding of how U.S. public health agencies have addressed this issue. The public's understanding of the CDC's operations and activities would be enhanced through CHD's analysis and publication of these records.

In addition, this request is primarily and fundamentally for non-commercial purposes.⁷

As a 501(c)(3) nonprofit, CHD does not have a commercial purpose. CHD works to end childhood health epidemics by exposing causes, eliminating harmful exposures, holding those responsible accountable, seeking justice for those injured, and establishing safeguards to prevent future harm. CHD is committed to educating the general public in connection with these efforts, and to that end, presents the information gathered, along with analyses and other editorial content, through news reports, press releases, and other media; on its public website; and on its news website, The Defender.⁸

Accordingly, CHD qualifies for a fee waiver.

Conclusion

CHD and the CDC share a common mission to promote public health and transparency in government. By working together at the outset, we can decrease the likelihood of costly and time-consuming litigation in the future. If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of the records, please do not hesitate to contact CHD to discuss this request.

Where possible, please provide responsive material in an electronic format by email. Alternatively, please provide responsive material in native format or in PDF format on a

⁶ Compare, e.g., <https://content.govdelivery.com/accounts/FLDOH/bulletins/3312697> and <https://zenodo.org/record/6564414#.Y0bt9XbMKUk> with <https://www.cdc.gov/vaccines/covid-19/clinical-considerations/myocarditis.html>.

⁷ See 5 U.S.C. § 552(a)(4)(A)(iii).

⁸ See Children's Health Defense, <https://childrenshealthdefense.org/>; The Defender <https://childrenshealthdefense.org/defender/>; <https://twitter.com/ChildrensHD>.

USB drive. Please send any responsive material being sent by mail to Children's Health Defense at 852 Franklin Ave., Suite 511, Franklin Lakes, New Jersey, 07417.

If it will accelerate the release of responsive records to CHD, please provide responsive material on a rolling basis. Children's Health Defense looks forward to working with your agency on this request. If you would like to discuss any part of this request, please contact me at foia@childrenshealthdefense.org.

Also, if CHD's request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Thank you for your time and attention to this matter.