



## DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

National Institutes of Health  
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September 15, 2021

Aaron Siri, Esq.  
Siri & Glimstad LLP  
200 Park Avenue  
Seventeenth Floor  
New York, NY 10166

Re: NIH FOIA Case Nos.: 54106, 53963 & 54107; *ICAN v. National Institutes of Health*, No. 20-cv-01277

Dear Mr. Siri:

This is a partial response to Freedom of Information Act (FOIA) requests that are the subject of the Complaint filed in *ICAN v. National Institutes of Health*, No. 20-cv-01277. Your FOIA request, dated April 29, 2020, was received by the National Institutes of Health (NIH) on the same day.

You requested the following for the timeframe of November 1, 2019 through the date of the search for:

All emails sent or received by Anthony Fauci that include the term Moderna or mRNA-1273 in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

and

All emails sent or received by Barney Graham that include the term SARS-CoV, COVID, COVID-19 or coronavirus in any portion of the email, including the body, subject, metadata, sender line, or recipient line of the email, or any attachment to the email.

NIH has processed 204 pages responsive to your request 53693, consisting of the entirety of the email correspondence for that request. Attached to this letter are 127 pages; NIH has sent the remaining 77 pages to the Department of Health and Human Services, the Centers for Disease Control and the White House for further review. NIH will provide a further response regarding

the consulted material once the consultations are complete. NIH has processed and attached 98 pages responsive to your request 54107. Also attached are 7 pages of returned consults from the July 2021 production to request 54106.

I have determined to withhold portions of the enclosed pages under FOIA exemptions (b)(4), (b)(5) and (b)(6). The information being withheld is protected from release pursuant to Exemptions 3, 4, 5, and 6 of the FOIA, 5 U.S.C. § 552 (b)(4), (b)(5) and (b)(6); and sections 5.31 (d), (e) and (f) of the HHS FOIA Regulations, 45 CFR Part 5. Exemption 4 protects from disclosure trade secrets and commercial or financial information that is privileged and confidential. Exemption 5 permits the withholding of internal government records which are pre-decisional and contain staff advice, opinion, and recommendations, as well as documents solicited and received by the President or his immediate White House advisers who have broad and significant responsibility for investigating and formulating the advice to be given to the President. Exemption 6 permits the withholding of privacy information, the release of which would constitute a clearly unwarranted invasion of personal privacy.

If you have any questions about this response, please contact AUSA Morrison, of the Department of Justice, at [Kristina.Morrison@usdoj.gov](mailto:Kristina.Morrison@usdoj.gov).

Sincerely,

*for Gorka Garcia-Malene*  
Freedom of Information Officer, NIH