



Case No. 2022-01230-FOIA-PHS

March 7, 2023

Sent via email:

Dr. Alison Abritis
RetractionWatch.com
121 W 36th St. Suite 209
New York, NY 10018
aabritis@gmail.com

Dear Dr. Abritis:

This letter is the final response to your September 29, 2022, Freedom of Information Act (FOIA) request. Specifically, you requested the following records:

"I am requesting copies of correspondence to or from the following people, whether primary or copied: Dr. Wanda Jones, Acting Director, ORI, Alexander Runko, Director, Division of Investigative Oversight, ORI. The correspondence should include any or all of the following keywords: ULI TR000124 Janina Jiang FR Doc. 2022-16867 (Amendment: changed timeframe from 8/2020 to 8/2021 (Date Range for Record Search: From 8/1/2021 To 9/29/2022))."

The Office of Research Integrity (ORI) conducted a search and located 433 pages of responsive records. After a careful review of these pages, I am releasing 40 pages to you in their entirety. I have found that it is reasonably foreseeable that disclosure would harm an interest protected by one or more of the exemptions to the FOIA's general rule of disclosure and/or that disclosure is prohibited by law; therefore, I am further withholding 174 pages in part, with portions redacted, pursuant to Exemption (b)(5), Exemption (b)(6), and Exemption (b)(7)(C) of the FOIA (5 U.S.C. §552). I am also withholding 219 pages in their entirety, pursuant to Exemption (b)(5) of the FOIA (5 U.S.C. §552).

FOIA exemption (b)(5) protects inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency. This exemption protects documents that would be covered by any privilege an agency could assert in a civil proceeding. These privileges include, among others, the deliberative process privilege, the attorney-client privilege, and the attorney work-product privilege. In this instance, the deliberative process privilege applies.

FOIA exemption (b)(6) permits a Federal agency to withhold information and records about individuals in "personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." The definition of "similar files" has historically been broadly interpreted to include a wide variety of files, and the United States Supreme Court has held that Congress intended the term "similar files" to be interpreted broadly, rather than narrowly. I have analyzed these records and find they meet the threshold requirement of this exemption. Additionally, I have reviewed and weighed the public interest in disclosure of this information against the privacy interest in nondisclosure, and found that the privacy interest outweighs the public's interest in disclosure.

FOIA exemption (b)(7)(C) provides protection for personal information in records compiled for law enforcement purposes, for witnesses, third parties, and others, when such disclosure “could reasonably be expected to constitute an unwarranted invasion of personal privacy.”

If you believe the information withheld should not be exempt from disclosure, or this response constitutes an adverse determination, you may appeal. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider your request and the agency’s decision.

Please mark the correspondence, “Freedom of Information Act Appeal.” Your appeal must be transmitted within 90 days from the date of receipt of this letter to:

Ms. Carol Maloney
Deputy Agency Chief FOIA Officer
U.S. Department of Health and Human Services
Office of the Assistant Secretary for Public Affairs
HHS.ACFO@hhs.gov

If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact the HHS FOIA Public Liaison for assistance at:

HHS FOIA/PA Public Liaison
FOI/Privacy Acts Division
Assistant Secretary for Public Affairs (ASPA)
Office of the Secretary (OS)
U.S. Department of Health and Human Services (HHS)
Telephone: (202) 690-7453
E-mail: HHS_FOIA_Public_Liaison@hhs.gov

If you are unable to resolve your FOIA dispute through our FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman’s office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
Telephone: 202-741-5770
Toll-Free: 1-877-684-6448
E-mail: ogis@nara.gov

There are no charges in this instance because the billable costs are less than our threshold of \$25.

Sincerely yours,

Kris Zadrovitz

on behalf of Arianne Perkins
Director, Initial FOIA Requests
FOI/Privacy Acts Division

Enclosure(s)