



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

National Institutes of Health
Freedom of Information Office
Building 31, Room 5B-35
31 Center Drive, MSC 2107
Bethesda, Maryland 20892-2107
phone: (301) 496-5633
fax: (301) 402-4541

Via Email: foia@americanoversight.org

October 27, 2022

Austin Evers
American Oversight
1030 15th Street NW, B255
Washington, DC 20005

Re: NIH FOIA Case No.: 53694,54171 & 54245; American Oversight v. NIH, 20-cv-01063

Dear Mr. Evers:

This is an amended response to several Freedom of Information Act (FOIA) requests that are the subject of the Complaint filed in American Oversight v. NIH, 20-cv-01063, now pending in the U.S. District Court for the District of Columbia. Your FOIA request 53694, dated March 5, 2020, was received by the National Institutes of Health (NIH) on the same day. Your FOIA request 54245, dated March 2, 2020, was received by the National Institutes of Health (NIH) on the same day. Your FOIA request 54171, dated March 3, 2020, was received by NIH on the same day.

In case 53694, you requested all email communications between Dr. Fauci or anyone serving as White House Liaison or agency point of contact for the coronavirus task force, and the following Executive Office of the President officials: Mike Pence, Robert O'Brien, Matthew Pottinger, Robert Blair, Joseph Grogan, Christopher Liddell, Larry Kudlow, Deborah Birx, Katie Miller and Kelvin Droegmeier. Upon further review, I have determined to release additional portions of the enclosed pages. 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 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.

In case 54171, you requested all final directives, orders, decision memoranda, or guidance provided by HHS leadership – both by the Office of the Secretary and the head offices of HHS components, including the Centers for Disease Control and Prevention (CDC), the National

Institute of Health (NIH), the National Institute of Allergy and Infectious Diseases (NIAID), or the Food and Drug Administration (FDA) – regarding public statements, public appearances, website changes or updates, or communications or press strategy on the coronavirus, COVID-19. This request includes but is not limited to any final directives, orders, decision memoranda, or guidance originating within HHS or components that were sent to other agencies on this topic. Upon further review, I have determined to release additional portions of the enclosed pages. I have determined to withhold portions of the enclosed pages under FOIA exemptions (b)(5) and (b)(6). The information being withheld is protected from release pursuant to Exemptions 5 and 6 of the FOIA, 5 U.S.C. § 552 (b)(5) and (b)(6); and sections 5.31(e) and (f) of the HHS FOIA Regulations, 45 CFR Part 5. 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.

In case 54245 you requested all final directives, orders, decision memoranda, or guidance from President Trump, Vice President Pence, or any staff of the Executive Office of the President (including anyone on White House Staff, in the Office of the Vice President, or on the staff of the National Security Council) regarding public statements, public appearances, website updates or changes, or communications or press strategy on the coronavirus, COVID-19. Upon further review, I have determined to release additional portions of the enclosed pages. I have determined to withhold portions of the enclosed pages under FOIA exemptions (b)(5) and (b)(6). The information being withheld is protected from release pursuant to Exemptions 5 and 6 of the FOIA, 5 U.S.C. § 552 (b)(5) and (b)(6); and sections 5.31(e) and (f) of the HHS FOIA Regulations, 45 CFR Part 5. 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.

Please direct any questions regarding this response to Amy Powell of the Department of Justice, at Amy.Powell@usdoj.gov.

Sincerely,

for
Gorka Garcia-Malene
Freedom of Information Officer, NIH

From: AMA2 (OS/IOS)
Sent: Thu, 20 Feb 2020 13:38:11 +0000
To: Ferro, Phil J. EOP/NSC
Cc: AS2KTC;Biegun, Stephen E;Bigley, Mark C. EOP/OMB;Blair, Robert B. EOP/WHO;Harrison, Brian (HHS/IOS);Butterfield, Nicholas W. EOP/WHO;Campana, Alexandra D. EOP/WHO;Cetron, Marty (CDC/DDID/NCEZID/DGMQ);Chafin, Kelly (EOP.GOV);Conant, Ann M. EOP/OMB;Conley, Sean P. CDR USN WHMO/WHMU;Conrad, Patricia (NIH/NIAID) [E];Davis, May M. EOP/WHO;Ditto, Jessica E. EOP/WHO;DL Chief of Staff Office;O'berry, Donna (DOT.GOV);Duffey, Michael P. EOP/OMB;Eisenberg, John A. EOP/WHO;Fabina, Lauren C. EOP/NSC;Fauci, Anthony (NIH/NIAID) [E];Grogan, Joseph J. EOP/WHO;Hemme, Jake W. EOP/NSC;Hennessey, Millicent S. EOP/NSC;Hoelscher, Douglas L. EOP/WHO;Kan, Derek T. EOP/OMB; (b) (6) Liddell, Christopher P. EOP/WHO;Miller, Julie L. EOP/OMB;Mulvaney, Mick M. EOP/WHO;OS Salesses, Robert;Pataki, Tim A. EOP/WHO;Pottinger, Matthew F. EOP/WHO;Riggs, Charlotte R. EOP/WHO;Redfield, Robert R. (CDC/OD);Kadlec, Robert (OS/ASPR/IO);Ruggiero, Anthony J. EOP/NSC;Scher, Adam A. EOP/OMB;Shellooe, Ryan P. EOP/NSC;Sinclair, Michael R. EOP/NSC;Szabat, Joel (OST);Tignor, Beth (HHS/IOS);Troye, Olivia EOP/NSC;Ulyot, John L. EOP/NSC;Williams, Michael B. EOP/WHO;Wilson, John Mark M. EOP/NSC;Woolfolk, Jon J. EOP/OVP
Subject: Re: REVISED TRAVEL ALERT FOR CRUISE SHIPS - FINAL CONCURRENCE NLT 0915 this morning

HHS concurs. Thank you.

On Feb 20, 2020, at 8:18 AM, Ferro, Phil J. EOP/NSC
(b) (6) wrote:

Good Morning WHTF,

Please find the coordinated travel alert for final concurrence below. Please clear 0915 this morning.

Thank you,

Phil

U.S. citizens should reconsider travel by cruise ship to or within East Asia and the Asia-Pacific Region. U.S. citizens planning travel by cruise ship elsewhere should be aware that, due to the current public health situation, many countries have implemented strict screening procedures in order to prevent the spread of the novel coronavirus that causes COVID-19. This is a dynamic situation and U.S. citizens traveling by ship may be impacted by travel restrictions affecting their itineraries or ability to disembark, or may be subject to quarantine procedures implemented by the local authorities. While the U.S. government has successfully evacuated hundreds of our citizens in the previous weeks, repatriation flights should not be relied upon as an option for U.S. citizens under the potential risk of quarantine by local authorities. U.S. citizens should evaluate the risks associated with choosing to remain in an area that may be subject to quarantine and take

the appropriate proactive measures. Passengers who plan to travel by cruise ship should contact their cruise line companies directly for further information on the current rules and restrictions, and continue to monitor the Travel.state.gov website for updated information.

Philip J. Ferro, PhD, MS
Director for Countering Biological Threats
National Security Council

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(b) (6)

From: Ferro, Phil J. EOP/NSC

Sent: Wednesday, February 19, 2020 5:49 PM

To: AMA2 (OS/IOS) (b) (6); AS2KTC (b) (6); Biegun, Stephen E (b) (6); Bigley, Mark C. EOP/OMB (b) (6); Blair, Robert B. EOP/WHO (b) (6); Brian Harrison (Brian.Harrison@hhs.gov) (b) (6); Butterfield, Nicholas W. EOP/WHO (b) (6); Campana, Alexandra D. EOP/WHO (b) (6); Cetron, Marty (CDC/DDID/NCEZID/DGMQ) (b) (6); Chafin, Kelly B. EOP/NSC (b) (6); Conant, Ann M. EOP/OMB (b) (6); Conley, Sean P. CDR USN WHMO/WHMU (b) (6); conradpa (b) (6); Davis, May M. EOP/WHO (b) (6); Ditto, Jessica E. EOP/WHO (b) (6); DL Chief of Staff Office (b) (6); donna.o'berry (b) (6); Duffey, Michael P. EOP/OMB (b) (6); Eisenberg, John A. EOP/WHO (b) (6); Fabina, Lauren C. EOP/NSC (b) (6); Fauci, Anthony (NIH/NIAID) [E] (b) (6); Ferro, Phil J. EOP/NSC (b) (6); Grogan, Joseph J. EOP/WHO (b) (6); Hemme, Jake W. EOP/NSC (b) (6); Hennessey, Millicent S. EOP/NSC (b) (6); Hoelscher, Douglas L. EOP/WHO (b) (6); Kan, Derek T. EOP/OMB (b) (6); Liddell, Christopher P. EOP/WHO (b) (6); Miller, Julie L. EOP/OMB (b) (6); Mulvaney, Mick M. EOP/WHO (b) (6); OS Salesses, Robert (b) (6); Pataki, Tim A. EOP/WHO (b) (6); Pottinger, Matthew F. EOP/WHO (b) (6); Riggs, Charlotte R. EOP/WHO (b) (6); Robert R. Redfield (b) (6); 'Robert.Kadlec@hhs.gov' (b) (6); Ruggiero, Anthony J. EOP/NSC (b) (6); Scher, Adam A. EOP/OMB (b) (6); Shellooe, Ryan P. EOP/NSC (b) (6); Sinclair, Michael R. EOP/NSC (b) (6); Szabat, Joel (OST) (b) (6); Tignor, Beth (HHS/IOS) (b) (6); Troye, Olivia EOP/NSC (b) (6); Uliyot, John L. EOP/NSC (b) (6); Williams, Michael B. EOP/WHO (b) (6); Wilson, John Mark M. EOP/NSC (b) (6); Woolfolk, Jon J. EOP/OVP (b) (6)

Subject: PROPOSED TRAVEL ALERT FOR CRUISE SHIPS - Clearance Requested NLT 7:30 P.M. this Evening
Importance: High

Dear WHTF,

Please find below the proposed travel alert for cruise ships. We respectfully request clearance by **7:30 p.m. this evening**.

State is targeting a rollout time of 11:00 a.m. tomorrow NSC is coordinating with State, DHS and NSC elements to conduct industry, Hill and press engagement.

Best Regards,

Phil



Philip J. Ferro, PhD, MS
Director for Countering Biological Threats
National Security Council

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