

September 21, 2021

Roger Andoh, FOIA Officer, MS-D54
Centers for Disease Control and Prevention (CDC)
1600 Clifton Road, N.E.
Atlanta, GA 30333

Re: FOIA Request - "Baby Friendly" risks

Dear Mr. Andoh:

Under the Freedom of Information Act (5 U.S.C. Section 552 *et seq.*), I request copies of the following agency records:

1. All records that respond to, discuss, or describe preventable harms, reported complications, safety concerns, safety monitoring, and safety research (hereafter "risks") associated with "Baby Friendly" and other exclusive breastfeeding promotion policies and practices.
2. All records which respond to, discuss, or describe the Fed Is Best Foundation, a non-profit organization that works to mitigate these risks.
3. All records which respond to, discuss, or describe Fed Is Best co-founder Christie del Castillo-Hegyí. Please include in your search records which respond to, discuss, or describe Dr. Castillo-Hegyí's efforts to communicate with CDC regarding these risks, including her April 16, 2015 email to Drs. Scanlon (Kelley S. Scanlon, Ph.D., R.D., Lead Epidemiologist, Epidemiology and Surveillance Team, Division of Nutrition, Physical Activity, and obesity, National Centre for Chronic Disease Prevention and Health Promotion, CDC) and Moore (Cynthia A. Moore, M.D., Ph.D., Director, Division on Birth Defects and Developmental Disabilities, CDC) regarding the SEED trial and autism risks, and December 13, 2015 email to Dr. Friedan (Thomas R. Friedan, M.D., M.P.H., former CDC Director). In relation to this component of this request, Dr. Castillo-Hegyí's Privacy Act authorization and release is submitted to the above address by mail, since it does not seem possible to include the necessary notarized signature as part of this electronic submission.

In relation to each item, please include any attachments or supporting documents. If communications cannot be released due to privacy or privilege, then please release all non-excludable data and meta-data.

The time frame for records sought by this FOIA request is from April 16, 2015 to the processing date, i.e., the date the search for responsive records starts.

Please provide responsive records in digital format via email per 5 U.S.C. Section 552 (a)(3)(B).

Under 5 U.S.C. Section 552(a)(4)(A)(iii), I request a public interest fee waiver of duplication and search fees based on my demonstrated ability and intent and plan to disseminate the requested

information broadly. In the event that the agency denies either of these requests, I am prepared to pay up to \$50 for such fees unless otherwise authorized in writing.

Please note that 5 U.S.C. Section 552(a)(4)(A)(iv)(II) requires that you provide the first 100 copies to me at no charge.

The subject of this request concerns the operations and activities of the government. CDC's main goal is the protection of public health through the control and prevention of disease, injury, and disability. The requested records will detail CDC's actions to prevent disease, injury, and disability associated with risks of insufficient newborn milk intake under the exclusive breastfeeding policies and practices the CDC promotes.

Disclosure is likely to contribute to an understanding of government operations or activities. The requested records are meaningfully informative about government operations or activities and will contribute to an increased understanding of those operations and activities by the public.

The requested records will allow me to convey more detailed information to the public about the CDC's activities in the mitigation of exclusive breastfeeding-associated risks. Once the requested information is made available, I will analyze it and present it to the Fed Is Best Foundation, to the general public, and to the media in a manner that will meaningfully enhance the public's understanding of preventable harm associated with exclusive breastfeeding, that is not currently available to the public. The records I seek will contain detailed data that is new information, and information that is not provided to, or easily accessible to, the American public.

Disclosure will contribute to public understanding of a broad audience of persons interested in the subject. As a representative of the news media, a Ph.D. political scientist and freelance writer previously published with outlets including *The Guardian* and *Christian Science Monitor*, and new mom researching a book on breastfeeding, I am gathering information on preventable harms to newborns from exclusive breastfeeding promotion. This information is of current interest to the public because published medical studies dating back decades indicate rising incidences of preventable newborn rehospitalizations due to dehydration and starvation effects when breastfeeding does not work well enough and formula supplementation is not offered. These rising rates of phenomena like jaundice and hypernatremia can cause permanent brain damage and even death in previously healthy newborns. There have been numerous recent mainstream news stories on the work of the Fed Is Best Foundation, a U.S. non-profit organisation started in 2016 to raise awareness, educate, and help prevent these harms. But in spite of sufficient medical evidence according to experts, and vocal advocacy efforts including from moms of affected babies, exclusive breastfeeding promotion policies and practices continue to be widespread and in some cases still growing. There is a public interest in understanding what CDC knew, when, and how about preventable harm to newborns associated with exclusive breastfeeding. If there is currently no CDC monitoring of breastfeeding-associated preventable harm to newborns, then there is a public interest in knowing that, too.

In recent related research, I requested documents and data from HHS/HRSA on the same terms for the same reasons. They granted my Media, Educational, & Scientific Requestor status and fee waiver requests. I am citing responsive records that they then disclosed in a forthcoming open-access, peer-reviewed article, further establishing my ability to synthesize and disseminate the requested information in a manner supportive of public understanding of government activities as

intended by FOIA. See “Breastfeeding Insufficiencies: Common and Preventable Harm to Neonates,” *Cureus*, DOI 10.7759/cureus (draft manuscript attached).

My plan to perform novel synthesis and broad dissemination of the previously unavailable data this FOIA request seeks is as follows: Share records regarding the Fed Is Best Foundation, with the Fed Is Best Foundation; share records regarding Dr. Castillo-Hegy, with Dr. Castillo-Hegy; make documents and data available on my website with Dr. Castillo-Hegy’s consent; when material is voluminous, summarize and make the summaries available on my website; write and submit essays synthesizing the material to news outlets; share the documents and data with other interested researchers and writers; incorporate the material into peer-reviewed publications; and incorporate the material into my breastfeeding book manuscript. The requested records will also be shared with news outlets, who are just as likely to disseminate this information to their audience. In determining whether disclosure of requested information will contribute significantly to public understanding, a guiding test is whether the requester will disseminate the information to a reasonably-broad audience of persons interested in the subject. Thus, the requested records are likely to contribute to an understanding of CDC operations and activities.

Please take note of the Office of Management and Budget guidelines published March 27, 1987 (52 FR 10012) that include electronic publications and other nontraditional publishers as representatives of the news media. OMB guidelines say that past publication can be used as proof I am a media representative. A list of my previous publications can be found on my website: <https://verawil.de/publications/>.

Please also remember that the U.S. Court of Appeals for the District of Columbia has determined that even a nonprofit clearinghouse of information can qualify as a representative of the news media. See *National Security Archive v. U.S. Department of Defense*, 279 U.S. App. D.C. 308 (D.C. 1989). This is relevant because I plan to make the information obtained via this request freely available online no matter where any resultant publications may run. I have an established record of doing this with substantive responses to other FOIA requests, having worked with multiple online outlets (including Russ Kick’s AltGov2 and The Memory Hole) and in collaboration with multiple widely circulated print publications (including McClatchy News — syndicated nation-wide — and Wired) to do so. There are links establishing these collaborations on my website: <https://verawil.de/polygraph/>.

These publications document my track record of active contribution to enhancing the public understanding of government operations and activities in the public interest and as a contributing source and expert in widely read news media. These news media contributions regarding my Ph.D. dissertation area of expertise, polygraphs, have been unpaid; while an active member of the news media, my interest is intellectual and ethical rather than commercial. I have a strong intellectual and ethical interest in, and the demonstrated ability, to get the results of this request out to the public, to the media, and to Congress.

I believe I meet the criteria for a fee waiver recognized by the U.S. Justice Department – in its policy guidance of April 1987 – and by the federal courts, See *Project on Military Procurement v. Department of the Navy*, 710 F. Supp. 362 363, 365 (D.C.D. 1989).

Also, the information sought has informative value, or potential for contribution to public understanding. Please note the decision in *Elizabeth Eudey v. Central Intelligence Agency*, 478 F.

Supp. 1175 1176 (D.C.D. 1979) (even a single document has the potential for contributing to public understanding). Public understanding will be significantly increased as a result of the disclosure, because the requested records will help reveal specific details about the operations and management activities of the CDC.

The requested records are also certain to shed light on the CDC's management activities and compliance with federal laws. Such public oversight of agency action is vital to our democratic system and clearly envisioned by the drafters of the Freedom of Information Act. Public oversight and enhanced understanding of CDC's duties is absolutely necessary.

In your deliberations, please take note of the following cases: Campbell v. U.S. Department of Justice, 334 U.S. App. D.C. (1998)(administrative and seemingly repetitious information is not exempt from fee-waiver consideration); Project on Military Procurement (agencies cannot reject a fee waiver based on the assumption that the information sought is covered by a FOIA exemption; and Landmark Legal Foundation v. Internal Revenue Service, 1998 U.S. Dist. LEXIS 21722 (D.C.D. 1998) (the fact that the information will soon be turned over to a public body does not exempt the material from fee-waiver consideration).

Please provide an estimate date of completion of this request.

If you have any questions regarding this FOIA request, please feel free to contact me. Thank you for your time, consideration, and assistance.

Best regards,
Vera Wilde

Linienstrasse 127
Berlin, Germany 10115
+49 151 5907 5245
vera@verawil.de



Centers for Disease Control
and Prevention (CDC)
Atlanta GA 30333

October 26, 2021

Vera Wilde
Linienstrasse 127
Berlin, 10115

Dear Ms. Wilde:

This letter is in response to your Centers for Disease Control and Prevention and Agency for Toxic Substances and Disease Registry (CDC/ATSDR) Freedom of Information Act (FOIA) request of September 21, 2021, for:

"Dear Mr. Andoh:

Under the Freedom of Information Act (5 U.S.C. Section 552 et seq.), I request copies of the following agency records:

1. All records that respond to, discuss, or describe preventable harms, reported complications, safety concerns, safety monitoring, and safety research (hereafter "risks") associated with "Baby Friendly" and other exclusive breastfeeding promotion policies and practices.
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Act authorization and release is submitted to the above address by mail, since it does not seem possible to include the necessary notarized signature as part of this electronic submission.

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Under 5 U.S.C. Section 552(a)(4)(A)(iii), I request a public interest fee waiver of duplication and search fees based on my demonstrated ability and intent and plan to disseminate the requested information broadly. In the event that the agency denies either of these requests, I am prepared to pay up to \$50 for such fees unless otherwise authorized in writing.

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Fed Is Best Foundation, to the general public, and to the media in a manner that will meaningfully enhance the public's understanding of preventable harm associated with exclusive breastfeeding, that is not currently available to the public."

Your request has been assigned #21-02317-FOIA.

We have received your narrowed scope dated October 21, 2021, in which you narrowed the scope of your request to:

"Per your request, here is a summary of the revised items.

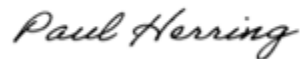
Please search for:

1. "Baby Friendly" / "Baby-Friendly" and "risk(s)" / "harm(s)" / "preventable harm(s)" / "complication(s)" / "reported complication(s)" / "safety" / "safety concern(s)" / "safety monitoring" / "safety research";
2. "Fed Is Best Foundation" or "Fed Is Best"; and
3. "Christie del Castillo-Hegy.".

Please apply the remainder of the terms of the original request (e.g., include supporting documents, release non-excludable meta-data, and search from April 16, 2015 to the processing date)."

You may check on the status of your case by going to our FOIA webpage at <https://foia.cdc.gov> and entering this number. If you have any questions regarding your request, please contact Paul Herring at qvc1@cdc.gov.

Sincerely,



Paul Herring
CDC/ATSDR FOIA Office
Office of the Chief Operating Officer
(770) 488-6399
Fax: (404) 235-1852

21-02317-FOIA



Centers for Disease Control
and Prevention (CDC)
Atlanta GA 30333

December 14, 2021

Vera Wilde
Linienstrasse 127
Berlin, 10115
Via email: vera@verawil.de

Dear Ms. Wilde:

This letter is regarding your Centers for Disease Control and Prevention and Agency for Toxic Substances and Disease Registry (CDC/ATSDR) Freedom of Information Act (FOIA) request of September 21, 2021, assigned #21-02317-FOIA (copy and amendments attached).

We located 3353 pages of responsive records (1953 pages released in full or in part; 521 pages withheld in full; 879 pages referred to other agencies). You may view and download the records at <https://centersfordiseasecontrol.sharefile.com/d-seb4720417c7a4e03a1e1716de743d79f>.

After a careful review of these pages, some information was withheld from release pursuant to 5 U.S.C. §552 Exemptions (b)(5) and (b)(6).

EXEMPTION 5

Exemption 5 protects inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. Exemption 5 therefore incorporates the privileges that protect materials from discovery in litigation, including the deliberative process, attorney work-product, and attorney-client privileges. Information withheld under this exemption was protected under the deliberative process privilege. The deliberative process privilege protects the decision-making process of government agencies. The deliberative process privilege protects materials that are both predecisional and deliberative. The materials that have been withheld under the deliberative process privilege of Exemption 5 are both predecisional and deliberative, and do not contain or represent formal or informal agency policies or decisions. Examples of information withheld include predecisional emails, draft talking points and other draft documents.

EXEMPTION 6

Exemption 6 protects information in personnel and medical files and similar files when disclosure would constitute a clearly unwarranted invasion of personal privacy. The information that has been withheld under Exemption 6 consists of personal information,

such as email addresses, names and resumes of personnel involved with a grant, phone numbers and conference passcodes. We have determined that the individual(s) to whom this information pertains has a substantial privacy interest in withholding it.

Documents containing equities of other agencies were found in our search: Department of Health and Human Services (876 pages); United States Department of Agriculture (3 pages). In accordance with the Department's implementing regulations, CDC does not make decisions on the release or denial of other agencies' information. We have referred your request and relevant pages to those agencies for their release determination and direct reply to you. You may contact them directly with questions about these pages:

HHS:

Beth Kramer

FOIA Public Liaison

Hubert H. Humphrey Building, Room 729H

200 Independence Avenue, SW

Washington, D.C. 20201

Submit requests to: <https://requests.publiclink.hhs.gov/App/Index.aspx>

Phone: 202-690-7453

Email: HHS_FOIA_Public_Liaison@hhs.gov

USDA:

Alexis R. Graves

Departmental FOIA Officer

1400 Independence Avenue, SW

South Building

Room 4104

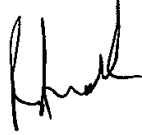
Washington, DC 20250-0706

Email: USDAFOIA@ocio.usda.gov

You may contact our FOIA Public Liaison at 770-488-6277 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with the response to this request, you may administratively appeal to the Deputy Agency Chief FOIA Officer, Office of the Assistant Secretary for Public Affairs, U.S. Department of Health and Human Services, via the online portal at <https://requests.publiclink.hhs.gov/App/Index.aspx>. Your appeal must be electronically transmitted by March 14, 2022.

Sincerely,

A handwritten signature in black ink, appearing to read 'Roger Andoh', written in a cursive style.

Roger Andoh
CDC/ATSDR FOIA Officer
Office of the Chief Operating Officer
(770) 488-6399
Fax: (404) 235-1852

Enclosures

21-02317-FOIA