



U.S. Department
of Veterans Affairs

Providence VA Medical Center
830 Chalkstone Avenue
Providence, RI 02908-4799

FOIA Request: 20-03069-F

01/23/2020

Russ Kick
New England Anti-Vivisection Society
333 Washington Street, Suite 850
Boston MA 02108

Dear Russ Kick:

This letter is the initial agency decision to your 12/23/2019, request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, submitted to the VHA 650 - Providence VA Medical Center FOIA Office for copies of the following records:

This is a request under the Freedom of Information Act. This request concerns the Institutional Animal Care and Use Committee (IACUC) at your VA facility. (If there is more than one IACUC, this request applies to all of them.)

1a) According to The Guide for the Care and Use of Laboratory Animals (The Guide), 8th edition, all entities must have a system in place for anyone (insiders or members of the public) to report concerns regarding animal welfare at a facility. These reports are either made directly to the IACUC Chair or a designated representative, or they eventually are routed to the IACUC Chair/representative. We request all such reported concerns received by the Chair since January 1, 2019. (This would encompass all appendices, annexes, attachments, and accompanying documents, including photos and videos in their original formats and resolution.)

1b) Further, for all such reported concerns deemed supported, we request the notification sent to the Institutional Official. The time frame is January 1, 2019, to present. (This would encompass all appendices, annexes, attachments, and accompanying documents, including photos and videos in their original formats and resolution.)

2a) Per The Guide, all entities must have a system in place for investigators to notify the IACUC and/or attending veterinarian of adverse events, unexpected or

unanticipated outcomes, violations of protocols, and other incidents involving animal welfare that occur during their studies/experiments. We request all such notifications received by the IACUC or AV since January 1, 2019. (This would encompass all appendices, annexes, attachments, and accompanying documents, including photos and videos in their original formats and resolution.)

2b) Further, we request all notifications sent to the Institutional Official regarding these reported incidents. The time frame is January 1, 2019, to present. (This would encompass all appendices, annexes, attachments, and accompanying documents, including photos and videos in their original formats and resolution.)

The FOIA, 5 U.S.C. § 552(a)(4)(A)(ii)(I)-(III), places all FOIA requesters in one of three categories for fee purposes. The statute establishes the fees that may be charged for each category of requester. The three statutory categories of FOIA requesters are (1) commercial use requesters; (2) educational institutions, noncommercial scientific institutions, and representative of the news media; and (3) all other requesters. Based upon information provided in your FOIA request, I have determined your request to be a Noncommercial scientific institutions request

Noncommercial scientific institutions or news media, VA's implementing FOIA regulations found at 38 C.F.R. §1.561(c) state that the requester will be charged for the cost of reproduction of the records only, excluding the charges for the first 100 pages. This cost will not apply if ultimately there is no disclosure of records. *You had requested a fee waiver however, the responsive records only included one page so there would be no fees associated with this request.*

Your FOIA request was received in my office on 01/06/2020.

The Research and Development office conducted a search for documents responsive to your request. The search was conducted by utilizing the search criteria meeting your request with the December 23, 2019 the date of your request. At the conclusion of the search, one documents, totaling one page, was determined to be responsive to your request.

My review of the documents revealed that they contained information that falls within the disclosure protections of FOIA Exemption 6, 5 U.S.C. § 552(b)(6). FOIA Exemption 6 permits VA to withhold a document or information contained within a document if disclosure of the information would constitute a clearly unwarranted invasion of a living individual's personal privacy. Stated another way, VA may withhold information under FOIA Exemption 6 where disclosure of the information, either by itself or in conjunction with other information available to either the public or the FOIA requester, would result in an unwarranted invasion of an individual's personal privacy without contributing significantly to the public's understanding of the activities of the federal government.

Specifically, the information I am withholding, as indicated on the enclosed documents, under FOIA Exemption 6 consists of employee's names and signatures; as the individuals associated with this information have a personal privacy interest in it.

The coverage of FOIA Exemption 6 is absolute unless the FOIA requester can demonstrate a countervailing public interest in the requested information by demonstrating that the individual is in a position to provide the requested information to members of the general public and that the information requested contributes significantly to the public's understanding of the activities of the Federal government. Additionally, the requester must demonstrate how the public's need to understand the information significantly outweighs the privacy interest of the person to whom the information pertains. Upon consideration of the materials provided, I have not been able to identify a countervailing public interest of sufficient magnitude to outweigh the privacy interest in this case. The individuals associated with this information have a personal privacy interest in information that outweighs any public interest served by disclosure of their identities under FOIA. Consequently, I am denying your request for this information under FOIA Exemption 6, 5 U.S.C. § 552 (b)(6).

If you disagree with my determination to withhold the information under FOIA Exemption 6, please be advised you may appeal to:

Office of the General Counsel (024)
Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420
Email: ogcfoiaappeals@va.gov

If you should choose to file an appeal, your appeal must be postmarked or electronically transmitted no later than ninety (90) calendar days from the date of this letter. Please include a copy of this letter with your written appeal and clearly state why you disagree with the determinations set forth in this response.

You may also seek assistance and/or dispute resolution services for any other aspect of your FOIA request, excluding the release determination, from VHA's FOIA Public Liaison and or Office of Government Information Services (OGIS) as provided below:

VHA FOIA Public Liaison:
Email Address: vhafoia2@va.gov
Phone Number: (877) 461-5038

Office of Government Information Services (OGIS)
Email: ogis@nara.gov
Fax: (202) 741-5769
Mailing address:

National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740-6001

Thank you for your interest in VA. If you have any further questions, please feel free to contact me at (401) 457-1455 or via email at 650FOIA@va.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Rowe', with a long horizontal flourish extending to the right.

Richard Rowe
VHA 650 - Providence VA Medical
Center FOIA Officer

Department of
Veterans Affairs

Memorandum

Date: 04/19/2019

From: (b)(6)

Subj: Deviation report for protocol titled, "The Role of NPR-C in Modulation of Acute Lung Injury" 2017-005

To: IACUC

This is to report a protocol deviation that has come to my attention during the most recent ORO site visit for my study titled: The Role of NPR-C in Modulation of Acute Lung Injury.

Post-operative records: It has come to my attention that the required post-operative monitoring forms were not maintained for the survival surgeries the surgeon performed on these mice (b)(6).

Analgesia: Adequate analgesia with buprenorphine was not being used for the survival osmotic pump surgery. It was stated in our protocol that the surgeon would give the mice buprenorphine subcutaneously every 6-8 hours for duration of experiment with the dose of .05-0.1mg/kg. We have addressed this with the surgeon who has since left the VA. In the future, employees responsible for maintaining post-operative records for survival surgeries will be trained to record the exact dosage and frequency of the analgesia given on the post-operative forms.

We realize that there has been a delay in recognition and reporting of these deviations. All project personnel have been trained in animal care and have been familiarized with the protocol again and instructed to report any future deviations immediately to the PI. In future, we anticipate prompt recognition and reporting of these issues to IACUC.

Sincerely,

(b)(6)

(b)(6)

Principal Investigator