

To:
From: Edward Hammond <hammond@sunshine-project.org>

Subject: Fwd: RE: Public Information Request

Cc:

Bcc:

Attachments:

Date: Wed, 11 Apr 2007 10:20:34 -0700
To: "Kelly, Scott" <S-Kelly@tam.u.edu>, tficht@cvm.tamu.edu, bsmaddox@tam.u.edu, mcmurray@medicine.tamu.edu
From: Edward Hammond <hammond@sunshine-project.org>
Subject: Fwd: RE: Public Information Request
Cc: "Yeager, Susan" <s-yeager@tam.u.edu>, "Raines, Angelia" <araines@vpr-mailsrv1.tamu.edu>, "Dr. Alicia Dorsey" <dorsey@tamhsc.edu>, "Callcott, Diane" <D-Callcott@tam.u.edu>
Bcc:
X-Attachments:

Mr Scott Kelly
Legal Counsel

Dr Thomas Ficht
Professor

Mr Brent Maddox
Biosafety/Lab Safety Director
Texas A&M Universty

Dr David McMurray
Professor
Texas A&M University Health Science Center

Gentlemen:

My patience is at its end in this matter. As you are well-aware, the Texas Public Information Act sets forth clear deadlines for public officials to produce and/or seek Attorney General ruling on records requested by the public. I requested accident records involving RG2 or higher agents at Texas A&M in October 2006. You have yet to produce a complete set of responsive records, and you are unquestionably in violation of Texas law.

You initially only acknolweged one occupational exposure to brucella, noted in a curious piece of paper that obviously did not consititute anything close to the complete set of records for that incident. You still acknowledge no other records on other possible or actual occupational exposures to RG2 or higher agents at Texas A&M since 2000, an assertion that I frankly find hard to believe.

Having failed to provide anything resembling the responsive records in the first instance, in reply to my complaint, TAMU at first stalled. Then, when I threatened to go to the Attorney General, lo and behold, you produced some rather shocking records about the brucella incident, apparently only in order to forestall the Attorney General's attention. These records still do not form a complete set of those that should have been handed over last year, **not even for that single incident.**

For example, you have produced no TAMU accident report(s) or recordkeeping by your environmental health department nor the Vet school nor LARR for the brucella incident or any other. You have produced no APHIS/CDC Form 3 for the brucella incident, a form that Mr. Maddox, who I believe is your select agent RO, was required to submit by federal law.

I also note that TAMUHSC, employer of the owner and inventor of the "foolproof" Madison Aerosol Chamber used when the brucella incident occurred, initially did not reply to my PIA request and now denies having any records regarding the incident, another assertion that I frankly find hard to believe.

Therefore, if I do not receive a complete set of records from TAMU and TAMUHSC for the brucella incident and any others by the end of this day, I will take action including any or all of the following:

- 1) Lodging a formal complaint with the Attorney General of Texas for TAMU and/or TAMUHSC violation of the Public Information Act;
- 2) Reporting to the Federal Bureau of Investigation apparent violation of the implementing regulations for the Bioterrorism Act of 2002 by officials of TAMU, and possibly TAMUHSC.
- 3) Reporting to the Centers for Disease Control and/or USDA APHIS apparent violation of the Select Agent Rule by TAMU and possibly TAMUHSC.
- 4) A news release explaining this situation and drawing public and media attention to a possible illegal coverup of violation of federal law and lab-acquired infection by TAMU.

I insist that you reply fully and completely by 5:00PM.

Sincerely,

Edward Hammond

Date: Tue, 10 Apr 2007 22:08:08 -0700
To: "Kelly, Scott" <S-Kelly@tam.u.edu>
From: Edward Hammond <hammond@sunshine-project.org>
Subject: RE: Public Information Request
Cc: "Yeager, Susan" <s-yeager@tam.u.edu>, "Raines, Angelia" <araines@vpr-mailsrv1.tam.u.edu>, "Dr. Alicia Dorsey" <dorsey@tamhsc.edu>, "Callcott, Diane" <D-Callcott@tam.u.edu>
Bcc:
X-Attachments:

Mr Kelly:

The issue is not your clarity, it is TAMU (non)compliance with the Texas Public Information Act and TAMU's failure to produce or seek AG ruling on records responsive to a request filed in October, 2006.

You represent TAMU. Where is the APHIS/CDC Form 3, plus any other responsive documents? It is incumbent upon TAMU to produce them. It was many months ago.

Sincerely,

Edward Hammond

At 11:43 PM -0500 4/10/07, Kelly, Scott wrote:

Mr. Hammond,

I thought my previous email was clear. I have provided you with the documents that have been identified, provided to me and been found responsive to your request. If other documents are identified, provided to me and found to be responsive to your request those documents will also be provided to you.

Scott Kelly

From: Edward Hammond [<mailto:hammond@sunshine-project.org>]

Sent: Tue 4/10/2007 11:31 PM

To: Kelly, Scott

Cc: Yeager, Susan; Raines, Angelia; Dr. Alicia Dorsey; Callcott, Diane

Subject: RE: Public Information Request

Dear Mr. Kelly:

That is not an acceptable response, nor one that I believe is legal under Texas law. A select agent accident resulting in an infection is far from a trivial event, nor could TAMU possibly be ignorant of the reporting requirements of federal law, particularly after the prosecution of Thomas Butler.

Has TAMU replied completely, or not? Has TAMU replied in accordance with the Texas Public Information Act, or have one or more of its officials failed to produce documents as required by law?

Sincerely,

Edward Hammond

At 11:10 PM -0500 4/10/07, Kelly, Scott wrote:

>Mr. Hammond,

>

>You have all of the documents that have been

>located and found responsive to your request.

>If there are other responsive documents that are

>identified those documents will also be provided
>to you.
>
>Scott Kelly
>
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>
>From: Edward Hammond [<mailto:hammond@sunshine-project.org>]
>Sent: Tue 4/10/2007 6:24 PM
>To: Kelly, Scott
>Cc: Yeager, Susan; Raines, Angelia; Dr. Alicia Dorsey; Callcott, Diane
>Subject: Re: Public Information Request
>
>
>
>Dear Mr. Kelly:
>
>Thank you for your belated reply, however, it remains incomplete.
>
>TAMU is required by federal regulation to contact
>APHIS or CDC immediately upon discovery of a
>theft, loss, or a release (occupational exposure
>or release of an agent or toxin outside of the
>primary barriers of the biocontainment area) of a
>select agent. After the initial report, APHIS/CDC
>Form 3 must be sent to APHIS or CDC within 7
>calendar days. The RO or facility director must
>complete, sign and date the form.
>
>I have no record of an intial report to CDC or
>APHIS, nor have you provided a completed
>APHIS/CDC Form 3 for the confirmed brucella LAI
>of February 2006.
>
>My request, filed on 24 October 2006, included:
>
>>2. All records on possible or actual occupational exposures and/or
>>laboratory-acquired infections with risk group 2 (RG2) or higher
>>agents at TAMU, from 1 January 2000 through the present. You may omit
>>the name(s) of exposed persons.
>
>The APHIS/CDC Form 3 is clearly responsive, and
>the time allowed under the Texas Public
>Information Act to produce this record is long
>since past.
>
>I insist that you immediately provide this record
>and all other responsive records that you have
>yet to produce.
>
>I am very disturbed by TAMU's response to this request.
>
>Sincerely,
>
>Edward Hammond
>
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>
>At 5:04 PM -0500 4/10/07, Kelly, Scott wrote:
>>Attached are additional records that our

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>>office received today related to the record
>>previously provided to you regarding an incident
>>of occupational exposure to brucella. We have
>>redacted personally identifiable information
>>about the patient as well as information related
>>to the exact location of toxins.
>>
>>We are also advised by Dr. Alicia Dorsey of
>>the Texas A&M System Health Science Center that
>>the HSC does not have any records responsive to
>>your request.
>>
>>Mr. Scott A. Kelly
>>Deputy General Counsel
>>The Texas A&M University System
>>Office of General Counsel
>>A&M System Bldg., Ste. 2079
>>200 Technology Way
>>College Station, Texas 77845
>>(979) 458-6125
>>(979) 458-6150 - facsimile
>>
>>
>>Content-Type: application/octet-stream;
>>    name="Hammond Response.pdf"
>>Content-Description: Hammond Response.pdf
>>Content-Disposition: attachment;
>>    filename="Hammond Response.pdf"
>>
>>Attachment converted: Red Fish:Hammond Response.pdf (PDF /«IC»)
(00D24885)
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