

[Note: I did not receive a direct reply addressing the concern I raised here about obstruction of my request. Emails and phone numbers have been redacted, and hyperlinks removed.]

----- Forwarded Message -----

From: Tim Reiersen <[REDACTED]@proton.me>

Date: On Friday, May 12th, 2023 at 9:29 AM

Subject: RE: Seeking Understanding - FOIA #08152022S168

To: Lancey, Brandon (OS/ASPA) <[REDACTED]@hhs.gov>

CC: [Beth Kramer] HHS FOIA Public Liaison (OS/ASPA) <[REDACTED]@hhs.gov>, [REDACTED]@nara.gov <[REDACTED]@nara.gov>, Farrah Monroe-Cook <[REDACTED]@samhsa.hhs.gov>

Dear Ms Kramer,

(with copy to OGIS for info purposes only, not invoking mediation services at this time)

(with copy to Farrah Monroe-Cook who has been extremely helpful, professional and courteous to me during difficult circumstances not of her making, and who continues to assist me with my open request).

My Reason for Writing

My email to you below was intended to be read, considered, and answered by the HHS FOIA Public Liaison, as my email says

"The letter offered that if I would like to discuss that response that I may contact you. I appreciate that offer and am writing for that reason."

I had hopes the liaison function (provided for in statute and suggested to me in the letter itself) would improve communication clarity and understanding. I don't feel we have reached that point yet.

I had hopes for an acknowledgement that SAMHSA's attempt to scuttle my request the first time was absurd, in error, wrong. I had hopes for reassurance that this time would be different and that someone would take a personal interest in protecting my request from attack, such as it received the first time.

"I'll be listening for some reassurance because I do not have a good feeling looking forward, based on my past experience." Me, my email to you below.

Comments on Mr. Lancey's Reply

Time delays. The time delays are unfortunate but I understand that we're not going to solve that problem today and it can be set aside.

Elephant in the room. I'd like to focus, for purposes of communication / liaison function, on what I believe is a mischaracterization about the handling of my request.

Look at the reply to my request for reassurance:

"... However, in some cases, there may be issues with the initial search or the agency's interpretation of the original request which lead to an insufficient initial search. In this case, it appears that SAMHSA realized that there may have been a misunderstanding regarding the type of records sought by your

request and are rectifying that issue by conducting a new search and issuing a revised response to your request..." May 9, 2023 email below.

To say there was a "misunderstanding" of my request is unsupported by facts. The Center knew what I was requesting, they clarified it with me. I would like you to consider the possibility that an internal decision was made to deliberately obstruct my clarified request. This is based on the record I provided to you, which I asked you to read, combined with the absurdity of the January 20, 2023 denial basis. The obstruction was an attempt to persuade me there were no responsive records, which was an outlandish claim (look at my clarified records request). This denial came even after the Center put in writing that at least some of my request could be provided.

So why am I writing if the records request is now back on track? I wanted to bring more eyes to the request because of how bad that first response was.

I came to you seeking some help and understanding (see my email request). Instead, the "misunderstanding" euphemism is used. It made very good sense for Ms Monroe-Cook to use it, because she was put in the middle of something, which I will explain below. But please, no one at SAMHSA should call this a misunderstanding of my request. That is not accurate at all.

Here Is What I Believe is Happening and Would Like for You to Be Aware of During the Re-Newed Processing of My Public Records Request

First, I'd like to compliment Ms Farrah Monroe-Cook, who communicated with me about my request, because I believe she was doing her job as she was instructed. She was new on the job and there is a backlog of requests.

"...as the FOIA officer I am only relaying the information that was provided to me. I do not house the records and/or documents so to go against what the Center states would be outside of my scope of work." January 20, 2023 email to me.

So, was this really a "misunderstanding of my request", or something else?

To help answer, let's turn to "the Center". I make assumptions here because I'm on the outside—feel free to provide organization charts or correct anything inaccurate in what I present here. I expect there are two levels (at least) at "the Center". There would be the researcher level who might even catalog documents on the way into storage, but we know for certain at least that they locate/retrieve them. I'm guessing the researchers have the ability to produce the documents in bulk for delivery as public records. These would be the ones who asked me to clarify my request even down to the tiniest details:

"Program would like to know if the request is for backups of all modalities (call/text/chat) and all specialty services (Spanish, LGBTQ+, etc.) or if, based on the context of previous questions, only a subset is truly requested." December 14, 2022 email to me.

Clearly, this is from someone on the "988 team" where my request was sent for processing, because they know all the terminology. These are the experts who know the documents and how to retrieve them.

I believe there is a second level at the Center, and this level reviews the raw documents from research and decides whether to pass them through to the FOIA Officer. **Here is where I would ask you to focus, for purposes of communication about my (still open) request.** I have good reason to believe this level-- someone between the researchers at the Center and the FOIA Officer, is obstructing my request. And I believe they threw Ms Monroe-Cook completely under the bus. As a new employee, they instructed her to tell me that SAMHSA had no responsive records:

"After careful review, it has been determined that all records requested belong to Vibrant Emotional Health, the 988 Lifeline Administrator, a SAMHSA grantee. Therefore, SAMHSA does not have any federal records to provide for this request." January 20, 2023 letter to me.

Now, that response is so far removed from any kind of touch with reality, that even I was shocked by it. And I've been given many obfuscating excuses by agencies and organizations during my advocacy work. I had already been told by the Center *"This can be supplied."* for at least part of my request! December 14, 2022 email to me.

When I received the denial letter I responded that same day back to Ms Monroe-Cook with an informal request to reconsider, appealing to common sense. January 20, 2023 email.

She came through for me because my request was put back into review. As I see it, she even covered for this behind-the-scenes blunder saying

"We met with the center and there was a slight misunderstanding about your request." February 1, 2023 email.

There absolutely was no "slight misunderstanding about [my] request", the Center researchers knew the documents existed and went so far as to require me to clarify my request so they could answer it. But after that time, someone intervened and tried to play a very foolish bluff to make me go away. When I called the bluff, it folded pretty quickly.

But I'm still concerned and that's why I want more eyes on this. The person or persons who tried to obstruct my request is presumably still on staff.

Closing Thoughts

I wish you had read my appeal before responding, or if you did read it, I wish you had addressed the elephant in the room. Read Attachment 3 it has all the email correspondence.

I do not feel that the liaison response provides meaningful information towards the serious concern I've raised. When concerns are actually named and addressed, people feel heard and seen, as opposed to invisible or without voice.

To completely spell it out, I'll give an example response of what I was hoping for: [HYPOTHETICAL, NOT AN ACTUAL QUOTE] "I agree the first response seems very unusual, and yes, obviously, if SAMHSA has corresponded with those organizations, and the documents are not exempt from disclosure, we should provide them to you. It looks like we're on the right track now, but because it's important we get this right, I'm going to talk to the people who made that questionable decision and

see what I can find out for you. I also want to follow this to make sure there are no mistakes this time. Let me know your impressions after documents are provided."

Your office has 400 open appeals (April 20, 2022 appeal acknowledgement letter to me). I wonder how many of them involve such pointless disputes as the one I had to raise. Maybe just provide the documents?

One More Thing

I believe SAMHSA's FOIA office/document center has a personnel issue. For anyone to be willing (and allowed) to instruct Ms Monroe-Cook to send that absurd Jan 20, 2023 letter, now part of the official record—it appears to me SAMHSA has a problem with a person on staff. Ms Monroe-Cook deserves to be supported and treated kindly. A set-up like that for someone new on the job? That was cold, hurtful. When I use that letter as an example for how broken things are, I'm going to remove her name and note it up somehow that it wasn't her doing.

And let me be 100% clear that she has never said this to me, she has been the consummate professional throughout. But, the near certainty that someone at SAMHSA's public records office used her to try to scuttle my request is not hard to guess.

I try to be open to correction if I'm wrong, and that goes for anything I've written, but please bring the facts.

Sincerely,
Tim Reiersen
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PS – With the liaison response, so far, missing my primary concern, I'd like even more eyes on this request-in-progress, so am copying in (as suggested in the April 20, 2023 remand letter to me) the Office of Government Information Services – for informational purposes only. If my public records request is fulfilled in full, there will be no need for mediation services.

----- Original Message -----

On Tuesday, May 9th, 2023 at 12:36 PM, Lancey, Brandon (OS/ASPA) <[REDACTED]@hhs.gov> wrote:

Good afternoon Mr. Reiersen,

Thank you for your email regarding your SAMHSA FOIA request (08152022S168) and HHS FOIA appeal (2023-00127-A-PHS). Earlier today I spoke to the SAMHSA FOIA Officer, Farrah Monroe-Cook. She informed me that she is continuing to review records located in response to your request and estimates that a revised response to your request will be issued sometime in the June timeframe. Once a final response is issued, you will be given appeal rights for any potential denials at that time.

With respect to the processing of your request, it is our goal to respond to FOIA requests within the statutorily mandated timeframes. However, sometimes this is not possible given the size of the existing FOIA backlog; the requirement to process requests in the order received, on a first-in, first-out basis; and the limited number of resources dedicated to processing FOIA request at an agency. SAMHSA currently has a FOIA backlog of around 167 requests and, until recently, only had one full-time employee processing FOIA requests. Because of this, sometimes there are time delays when processing a FOIA request.

Finally, I would note that in most cases an agency conducts a search for records responsive to a request and issues a response based on the records that are located. However, in some cases, there may be issues with the initial search or the agency's interpretation of the original request which lead to an insufficient initial search. In this case, it appears that SAMHSA realized that there may have been a misunderstanding regarding the type of records sought by your request and are rectifying that issue by conducting a new search and issuing a revised response to your request.

I hope this information helps. Please let me know if you have any additional questions.

Sincerely,

Brandon Lancey

Brandon L. Lancey
Government Information Specialist
Freedom of Information/Privacy Acts Division
Office of the Assistant Secretary for Public Affairs (ASPA)
Office of the Secretary (OS)
Department of Health and Human Services (HHS)

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From: HHS FOIA Public Liaison (OS/ASPA) <[REDACTED] @hhs.gov>
Sent: Tuesday, May 9, 2023 12:44 PM
To: Lancey, Brandon (OS/ASPA) <[REDACTED] @hhs.gov>
Subject: FW: Seeking Understanding - FOIA #08152022S168

From: Tim Reiersen <[REDACTED] @proton.me>
Date: On Friday, May 5th, 2023 at 9:22 AM
Subject: Re: Seeking Understanding - FOIA #08152022S168
To: Kramer, Beth <[REDACTED] @hhs.gov>
Ref: 2023-00127-A-PHS
SAMHSA Request #08152022S168

Please confirm receipt of the below email sent April 28, 2023. Thank you.

Tim Reiersen

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From: Tim Reiersen <[REDACTED] @proton.me>

Sent: Friday, April 28, 2023 9:36 AM

To: Kramer, Beth HHS FOIA Public Liaison (OS/ASPA) <[REDACTED] @hhs.gov>

Subject: Seeking Understanding - FOIA #08152022S168

Ref: 2023-00127-A-PHS

SAMHSA Request #08152022S168

Good morning,

I filed the above referenced appeal on April 17, 2023 and received a letter dated April 20, 2023 saying my FOIA request (as revised) has been remanded back to SAMHSA for completion, estimated within 3 to 4 weeks of the letter. The letter offered that if I would like to discuss that response that I may contact you. I appreciate that offer and am writing for that reason.

As I wait for the public records response promised, I would very much like to converse with you about what has happened so far, so I can learn about the process and inform my expectations for this remand.

Would you be willing to review my full appeal documentation first (attached to this email), so you have that background (including **Attachment 3**, the email correspondence), and give me your initial impressions? I put a lot of detail into the appeal because I thought the way the request was handled was unreasonable, even jarring at times—even setting aside the repeated time delays. The obvious questions that come up for me, for you, are: is my request unusual, is this a typical response, and does it seem reasonable (the handling of my request so far)?

Then I will probably have some more questions to gain a better understanding, and to help prepare me for what to expect when the next response is made. I'll be listening for some reassurance because I do not have a good feeling looking forward, based on my past experience. This is my first time making a public records request to SAMHSA. Can you help me understand better what is happening?

The information I'm requesting is vitally important. I don't feel the request is being seriously considered. My feeling is, the carelessness in which my request has been handled so far is disrespectful to persons relying on the national crisis line service network. I'm asking for your help to create a respectfulness for those persons, within this FOIA transaction.

Sincerely,

Tim Reiersen

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