

NOTICE OF FOIA APPEAL

to the Substance Abuse and Mental Health Services Administration (SAMHSA), an agency within the U.S. Department of Health & Human Services,

Ms. Carol Maloney, Deputy Agency Chief FOIA Officer  
Office of the Assistant Secretary for Public Affairs, Room 729H  
200 Independence Avenue, S.W., Washington, DC 20201  
*submitted via email only to: FOIARequest@hhs.gov*

Appealing the SAMHSA Freedom of Information Act Response to FOIA #08 [REDACTED]

I. Appellant/Appeal Reference Information:

Appellant: *Tim Reiersen*  
Pronouns: *he/him*  
Filing Date of Appeal: *April 17, 2023*

Appellant Contact Information

Phone: [REDACTED]  
Email: *@proton.me*  
Mail Address:

Subject Matter of Appeal: *SAMHSA response to records request #08*

Date of FOIA Request: *August 15, 2022* See **Attachment 1.**  
Date of FOIA Request Clarification: *December 14, 2022* See **Attachment 1.**  
Date of FOIA Final Response: *January 20, 2023* See **Attachment 2.**

II. Appeal:

- Reasons for the appeal

Failure to comply with **5 U.S.C. § 552**, including but not limited to:

*a. Unreasonable, Arbitrary Handling & Disposition of Request. The communications of the agency through its designated FOIA Officer have been contradictory and unresponsive with respect to requested documents. No responsive documents have been provided to date. The January 20, 2023 “final response” letter stated:*

*“this office...determined that the records you are seeking does not require a search of documents...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.”*

*Then in a February 1, 2023 email from the FOIA Officer, I was told:*

“...there was a slight misunderstanding about your request. We came to an agreement that your request would be reworked and any information that SAMHSA has will be sent to you. They are working on the request and hopefully I will have any documents to you within the next 2 weeks, if not sooner.”

*Two months later, having received no communications or documents, on April 6, 2023 I made email request “that the Jan 20, 2023 response letter be formally revoked, to release the 90 day appeal period which will be closing soon.” To allow time for the promised documents to be provided.*

*The FOIA Officer responded by email same day that the documents were being worked on, that the officer would be on vacation next week but upon return would continue to process the documents. No mention was made of revoking the Jan 20, 2023 final response as I had requested, for relief from the imminent statutory appeal deadline. No documents were provided.*

*b. Pointless Request to Clarify, Capricious Response to Clarified Request. In a December 14, 2022 email the FOIA Officer passed through to me a request for clarifications to my initial request, along with a statement of agreement to provide my requested Item No. 4. I provided the clarifications by email same day. See **Attachment 1**. Then by letter dated January 20, 2023, the entirety of my request was denied with the statement that no search was even required. See **Attachment 2**.*

*c. Failure to Search. The agency failed to comply with its statutory obligation to make reasonable search for documents. See January 20, 2023 final response letter stating no search was required (**Attachment 2**.) The agency then correctly reversed itself but only in an unofficial communication (Feb 1, 2023 email quoted in a. above), and has yet to provide any responsive documents.*

*d. Failure to Provide Responsive Documents. A reasonable person would believe it a certainty that numerous documents exist, responsive to the request. SAMHSA is the front-line agency with responsibility for carrying out legislative and administrative mandates for the 988 Lifeline crisis response system within this country, serving a vulnerable population, millions of personal crisis line contacts each year. By claiming that a private non-profit corporation owns the documents, the agency is, in effect, claiming exemption from the federal FOIA statutes—an exemption not found in those statutes. [I requested documents from Vibrant Emotional Health, the named SAMHSA “grantee” and they refused to provide them. I can provide this documentation upon request.]*

*e. Absurd Result, Abrogation of Responsibility. It is a well-known principle of statutory construction to avoid absurd results. SAMHSA’s final response letter claims the documents “belong to” a private organization. The private organization is not subject to the Freedom of Information Act, to my knowledge. The request is for documents that either include SAMHSA as an originator or recipient of correspondence, or that pertain directly to 988 Lifeline crisis service providers. If SAMHSA does not have possession of*

*such documents, it would be an abrogation of their responsibilities to the public, their statutory obligations in general, and their specific statutory obligations within the spirit and letter of the Freedom of Information Act. Vibrant Emotional Health, apparently within their rights, refused to provide me with any documents. In the vernacular, I have been given the runaround. For eight months.*

*f. Legitimate Interests, Significant Public Interests. I am a single citizen, a former volunteer for Crisis Text Line who was terminated for voicing my concerns about data ethics, lack of consent, and exploitation of vulnerable persons. I have become an advocate for volunteers and persons seeking help from the 988 Lifeline system of crisis lines. I built an advocacy website [www.reformcrisistextline.com](http://www.reformcrisistextline.com) and I am public about my advocacy. Again and again I have run into a lack of accountability and lack of transparency within these systems—in their governmental and private-partner implementations. The Freedom of Information Act promises and requires that the agencies of our federal government--the instruments of the public's own creation--be accountable to that same public. In my advocacy I am trying to speak for persons who for obvious reasons may be unable to speak for themselves, and who lack power and influence in these systems. There are significant public interests in my advocacy and I am not just requesting, but am demanding that every single scrap of a document responsive to my request be provided! The public needs access to this information to protect itself from exploitation, in particular when the agencies themselves won't offer the vulnerable the protection they need and deserve. Even though these records have significant public interest associated with them, I made no request for relief from payment as the law allows. Not because I waive the public interest, but because I want to pay fair cost for the records.*

*g. Failure to Comply, Timeliness. The agency did not comply with statutory requirements for timeliness. See 5 U.S.C. § 552(a)(6)(A)(i). The inference: if the agency does not consider itself bound by all its governing statutes, then I have no way of knowing which statutes it is following and which it is waiving with respect to my lawful request. I therefore request a review of agency action/inaction, namely the failure to provide requested documents.*

- Supporting documentation (*incorporated herein by this reference*)  
**Attachment 1: Content of Records Request Including as Clarified/Modified**  
**Attachment 2: Copy SAMHSA Initial Response Letter**  
**Attachment 3: Email correspondence with FOIA Officer.**

Appellant reserves the right to amend this notice of appeal in response to new information or for any other reason pertinent to the proceeding, in Appellant's sole discretion.

Upon request, Appellant will provide any reasonable documentation or statement for verification of identity. This Notice of Appeal was prepared, approved and submitted by Tim Reiersen, the same who submitted FOIA #08