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FOIA APPEAL

MUCKROCK NEWS
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000036 1 1 1 **********SNGLP 956
CENTERS FOR MEDICARE & MEDICAID SERVICES
Foia Office
7500 Security Blvd
Baltimore MD 21244-1850

January 21, 2025

This is a follow up to a previous request:

11/13/2024
Subject: Freedom of Information Act Request: Records on Medicaid Billing Actions, ADA Compliance, and Retaliation Against ABI Resources LLC Ticket #539494 Following December 18, 2023, Whistleblower Report (Centers for Medicare and Medicaid Services)
https://www.muckrock.com/foi/united-states-of-america-10/records-on-medicaid-billing-actions-ada-compliance-and-retaliation-against-abi-resources-llc-ticket-539494-following-december-18-2023-whistleblower-report-centers-for-medicare-and-medicaid-services-176236/

01/21/2025

Final Assertion of Legal Obligations Under FOIA, ADA, and Constitutional Law

Subject: 12/23/2024 Freedom of Information Act Request: OSC Cases DI-25-000310, DI-25-000325, DI-25-000379, DI-12192024714, and DI-12112024134; Associated FBI, DOJ, HHS, CMS, OAG, OIP , DOT and Medicaid Oversight

Records FOIA (Federal Bureau of Investigation)

To: ALL

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DOJ Civil Rights Division

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Division of Management and Administrative Legal Services

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DOJ U.S. Department of Justice Office of Information Policy

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*** Federal Bureau of Investigation (FBI)
Subject: Urgent Request for Investigation into OSC Case Records, Altered Decisions, and Suppressed Reports

Dear FBI Team,

I am formally requesting your assistance to investigate systemic failures, misconduct, and potential criminal activity surrounding the handling of my submissions to the Office of Special Counsel (OSC). These failures directly impact whistleblower protections, Medicaid oversight, and public accountability.

Issues to Investigate

1. Case Numbers and Records Management

Case Numbers Requiring Investigation:

DI-25-000310

DI-25-000325

DI-25-000379

DI-12192024714

DI-12112024134

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OSCFiling-MedeirosDavid-DI-11252024342

OSCFiling-MedeirosDavid-DI-11272024158

OSCFiling-MedeirosDavid-DI-11282024737

OSCFiling-MedeirosDavid-DI-12022024333

OSCFiling-MedeirosDavid-DI-12032024933

OSCFiling-MedeirosDavid-DI-12042024718

OSCFiling-MedeirosDavid-DI-12052024838

OSCFiling-MedeirosDavid-DI-12062024939

OSCFiling-MedeirosDavid-DI-12072024240

OSCFiling-MedeirosDavid-DI-12112024134

OSCFiling-MedeirosDavid-DI-12202024300

OSCFiling-MedeirosDavid-DI-112620241121

2. Anonymity and Lack of Accountability in Decision-Making

Unsigned Determination Letters:

Many determination letters from OSC lack identifiable signatures, names, or clear authorship.

This practice raises serious concerns about accountability and compliance with transparency laws.

3. Suppressed or Altered Records

Evidence suggests discrepancies between the whistleblower reports I submitted and how they were recorded or handled by OSC.

Specific issues include:

Alterations or removal of content from submitted complaints.

Suppression of reports that exposed systemic failures in Medicaid oversight and retaliation against whistleblowers.

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4. Lack of FOIA Compliance

Despite repeated Freedom of Information Act (FOIA) requests, OSC and related agencies have failed to provide:

Complete case files and communication logs.

Justification for withheld or redacted information.

Clear timelines for compliance.

Specific Questions to Investigate

1. Who is Responsible for Managing These Records?

Identify the individuals, teams, or automated systems involved in creating, altering, and assigning these case numbers and reports.

2. What Decisions Were Made and Why?

Determine how decisions were reached, why some reports were closed without action, and why letters were sent anonymously.

3. Were There Violations of Federal Law?

Investigate potential obstruction of justice, retaliation, or misuse of authority under whistleblower protection laws and FOIA.

Key Agencies and Officials Involved

This matter spans multiple federal and state agencies, including:

- Office of Special Counsel (OSC)
- Department of Justice (DOJ)
- Centers for Medicare & Medicaid Services (CMS)
- Department of Health and Human Services (HHS)
- Office of Inspector General (OIG)

Why This Matters

1. Whistleblower Protections:

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Retaliation against whistleblowers and suppression of reports undermine federal protections designed to safeguard transparency and accountability.

2. Impact on Vulnerable Populations:

These failures harm Medicaid consumers, particularly those with disabilities, by allowing systemic mismanagement to persist unchecked.

3. Misuse of Taxpayer Funds:

Lack of oversight and accountability results in waste and misuse of federal funds meant to serve the public.

Requested Actions

1. Investigate Record Management:

Audit all OSC records, emails, and internal communications related to these case numbers.

Identify responsible individuals or systems.

2. Subpoena Additional Evidence:

Secure all suppressed or altered reports to ensure a complete and accurate investigation.

3. Hold Accountable Those Involved in Misconduct:

Recommend prosecution or disciplinary action for any individuals found to have violated federal laws.

4. Ensure Compliance with FOIA and Whistleblower Protections:

Mandate OSC and related agencies to comply fully with FOIA requests and whistleblower laws.

Attachments

I have attached all available documentation, including:

Correspondence with OSC, including determination letters and emails.

FOIA requests and responses (or lack thereof).

Detailed reports submitted to OSC and other federal agencies.

This issue demands immediate attention to uphold the principles of transparency, accountability, and justice. I am available to provide additional information or documentation as needed.

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Sincerely,
David Medeiros
Founder, ABI Resources

Subject: Final Assertion of Legal Obligations Under FOIA, ADA, and Constitutional Law

Subject: 12/23/2024 Freedom of Information Act Request: OSC Cases DI-25-000310, DI-25-000325, DI-25-000379, DI-12192024714, and DI-12112024134; Associated FBI, DOJ, HHS, CMS, OAG, OIP , DOT and Medicaid Oversight Records FOIA (Federal Bureau of Investigation)
01.08.2025

To all It May Concern in All Relevant Departments and Divisions,
Federal Bureau of Investigation

Michael G. Seidel
Section Chief
Record/Information Dissemination Section
Information Management Division
This correspondence pertains to my Freedom of Information Act (FOIA) request. Your handling of this matter raises critical concerns under FOIA (5 U.S.C. § 552), the Americans with Disabilities Act (ADA, 42 U.S.C. § 12132), and constitutional principles of government accountability.

OSC Case Records

Complete files, internal and external communications, investigations, and resolutions regarding:

OSCFiling-MedeirosDavid-DI-11252024342 .pdf

OSCFiling-MedeirosDavid-DI-11272024158 .pdf

OSCFiling-MedeirosDavid-DI-11282024737 .pdf

OSCFiling-MedeirosDavid-DI-12022024333 .pdf

OSCFiling-MedeirosDavid-DI-12032024933 .pdf

OSCFiling-MedeirosDavid-DI-12042024718 .pdf

OSCFiling-MedeirosDavid-DI-12052024838 .pdf

OSCFiling-MedeirosDavid-DI-12062024939 .pdf

OSCFiling-MedeirosDavid-DI-12072024240 .pdf

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OSCFiling-MedeirosDavid-DI-12112024134 .pdf

OSCFiling-MedeirosDavid-DI-12202024300 .pdf

OSCFiling-MedeirosDavid-DI-112620241121 .pdf

OSC File No. DI-25-000379

DI-25-000310

DI-25-000325

DI-25-000379

DI-12192024714

DI-12112024134

As recognized in National Archives and Records Administration v. Favish, 541 U.S. 157 (2004), transparency is fundamental to democracy and public trust. Your agency's obligations are not discretionary, and failure to meet them constitutes a violation of statutory and constitutional law. This letter establishes your duties, addresses deficiencies, and anticipates and counters all potential deflection strategies.

1. FOIA Obligations: Statutory Mandates and Required Actions
FOIA establishes an enforceable right of access to federal agency records. Your response must meet the following requirements:

A. Timeliness
Under 5 U.S.C. § 552(a)(6)(A), you are required to provide a determination within 20 business days. Delays beyond this timeframe, absent legitimate extension requests, constitute a violation of FOIA.
Countermeasure: Delays are actionable under Citizens for Responsibility and Ethics in Washington v. DOJ, 711 F.3d 180 (D.C. Cir. 2013).
Required Action: Provide the requested records or a lawful determination.

B. Adequacy of Search
FOIA requires a thorough and reasonable search for records, as established in Campbell v. DOJ, 164 F.3d 20 (D.C. Cir. 1998). This includes:
Identifying the databases, locations, and terms used.
Providing a sworn affidavit detailing the search scope.
Countermeasure: A vague claim of "no responsive records" is insufficient without a detailed affidavit.
Required Action: Submit a sworn affidavit documenting the search or confirm the existence of responsive records.

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C. Proper Use of Exemptions
Exemptions under 5 U.S.C. § 552(b) must be narrowly applied and justified with specific explanations. Blanket or vague exemptions are impermissible.
Countermeasure: A Vaughn index (Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973)) is required to justify each withholding.
Required Action: Submit a Vaughn index detailing each exemption and its justification within 10 business days.

D. Decentralization and Referrals
Referrals or decentralization excuses do not absolve your agency of its responsibility to provide a consolidated response. As held in McGehee v. CIA, 697 F.2d 1095 (D.C. Cir. 1983), agencies must coordinate internally to ensure compliance.
Countermeasure: Require assurance of continuity and coordination across divisions.
Required Action: Consolidate records from all relevant offices and provide a unified response.

2. ADA and Rehabilitation Act Compliance: Equal Access as a Legal Right
As a person with a documented disability, I am entitled to reasonable accommodations under the ADA and Section 504 of the Rehabilitation Act. Your failure to provide accessible formats for requested records constitutes discrimination and violates federal law.

Case Law:
Tennessee v. Lane, 541 U.S. 509 (2004): Agencies must ensure meaningful access to government services.
Alexander v. Choate, 469 U.S. 287 (1985): Denial of reasonable accommodations creates barriers that violate civil rights.

Required Action:
Provide all requested records in accessible formats, including plain-language summaries or electronic files compatible with assistive technologies.
Confirm compliance with ADA requirements by [specific date].

3. Mandated Reporting and Whistleblower Protections
Your handling of this request implicates broader concerns, including potential fraud, misuse of federal funds, or retaliation against whistleblowers. Under the Whistleblower Protection Act (5 U.S.C. § 2302), you are required to report and address systemic violations.
Countermeasure: Reference Misprision of Felony (18 U.S.C. § 4), which requires the reporting of observed violations of law.
Required Action: Document and escalate evidence of misconduct to oversight bodies, including the Office of Inspector General (OIG).

4. Consequences of Non-Compliance
Failure to comply with your statutory obligations knowingly constitutes violations of:
Obstruction of Justice (18 U.S.C. § 1505): Delaying lawful access to records obstructs public accountability.
Civil Rights Violations (42 U.S.C. § 1983): Denying ADA accommodations constitutes a deprivation of federally protected rights.
Misprision of Felony (18 U.S.C. § 4): Concealing or failing to report observed violations is a criminal act.

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Countermeasure: Prepare for judicial review, oversight complaints, and public advocacy if compliance fails.

5. Escalation Pathways
If your office does not comply within the specified timeframe, I will escalate this matter through:
Judicial Review: Filing a lawsuit under 5 U.S.C. § 552(a)(4)(B) to compel disclosure.
Oversight Complaints: Submitting formal complaints to OGIS, OIG, and the DOJ Civil Rights Division.
Public Advocacy: Engaging investigative journalists, transparency advocates, and public interest organizations to ensure accountability.

6. Final Statement: Upholding Transparency and Accountability
This matter reflects the public's right to transparency and the preservation of trust in government institutions. Your actions will either affirm your agency's commitment to accountability or further evidence systemic disregard for these principles.

I look forward to your prompt and substantive response.

David Medeiros
ABI Resources

State of Connecticut Officials:

Governor Ned Lamont
Title: Governor of Connecticut
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Toll-Free: (800) 406-1527
TDD: (860) 524-7397
Email: Contact Form
Website: https://portal.ct.gov/governor

Attorney General William Tong
Title: Attorney General of Connecticut
Office Address: 165 Capitol Avenue, Hartford, CT 06106
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Commissioner Andrea Barton Reeves
Title: Commissioner, Connecticut Department of Social Services (DSS)
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Connecticut Freedom of Information Commission (FOIC)

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Federal Officials and Agencies:

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Phone: (202) 224-2823
Email: Contact Form
Website: https://www.blumenthal.senate.gov

Senator Chris Murphy
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Washington D.C. Office Address: 136 Hart Senate Office Building, Washington, D.C. 20510
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U.S. Department of Justice Civil Rights Division

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~~Attorney General Merrick Garland~~

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Inspector General

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Michael E. Horowitz

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Bernie Sanders
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Email: helpcommittee@senate.gov
Website: https://www.help.senate.gov

Advocacy and Transparency Organizations
American Civil Liberties Union (ACLU)
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Phone: (212) 549-2500
Email: info@aclu.org
Website: https://www.aclu.org

Government Accountability Project (GAP)
Office Address: 1612 K Street NW, Suite 1100, Washington, D.C. 20006
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Email: info@whistleblower.org
Website: https://www.whistleblower.org

National Whistleblower Center (NWC)
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Website: https://www.whistleblowers.org

Public Citizen
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