

Written Statement of Gary Ruskin
Executive Director of US Right to Know
For the
U.S. Senate Committee on Homeland Security and Governmental Affairs
June 18, 2024

Thank you for inviting me to provide this statement on roadblocks to our investigation of high-risk virological research and the origins of COVID-19, and missing evidence that the public ought to have on these subjects.

U.S. Right to Know is a nonprofit investigative public health group.

Four years ago, we began our research into high-risk virological research and the origins of COVID-19. As a part of this work, we have filed 169 federal, state and international public records requests, including 99 Freedom of Information Act requests. We have written more than 70 news articles based on the information we have gathered.¹

Some of our public records requests have revealed records that shed light on what our government agencies know about the origins of COVID-19. However, we also saw that some agencies showed a pattern of obstruction, delay and stonewalling.

It is long past time for the Biden administration to instruct federal agencies to comply with FOIA requests for records related to high-risk virological research or the origins of COVID-19. Failure to do so is disrespectful not only to rule of law but also to the grieving families of more than one million Americans who died from the pandemic.

In the course of our investigation, we have had to file 28 public records lawsuits covering 47 separate FOIA and state FOI requests.²

We have had to litigate FOIA requests to 14 federal agencies and sub-agencies, including:

- Defense Advanced Research Projects Agency (DARPA)
- Defense Intelligence Agency (DIA)
- Defense Threat Reduction Agency (DTRA)
- Department of Defense (DOD)
- Department of Education (ED)
- Department of Energy (DOE)
- Department of Health and Human Services (HHS)
- Department of State (DOS)

¹ Our reporting on these topics is available at: <https://usrtk.org/category/covid-19-origins/> and <https://usrtk.org/category/risky-research/>

² U.S. Right to Know, "FOI lawsuits on origins of COVID-19, gain-of-function research and biolabs." Available at: <https://usrtk.org/covid-19-origins/foi-litigation-on-origins-of-sars-cov-2-gain-of-function-2/>

- Federal Bureau of Investigation (FBI)
- Food and Drug Administration (FDA)
- National Institutes of Health (NIH)
- National Library of Medicine (NLM)
- Office of the Director of National Intelligence (ODNI)
- U.S. Agency for International Development (USAID)

We have had to litigate State FOI requests to two state public universities:

- University of North Carolina at Chapel Hill
- University of Maryland

Below, we outline noteworthy examples of obstruction of public records laws that have impaired our investigation. For more information on each of our FOI lawsuits, please see our FOI lawsuits webpage.³

In sum, these examples point to a body of missing evidence about the origins of COVID-19 that our federal or state governments have access to. The American people should have this evidence, but we currently do not have it.

Office of the Director of National Intelligence

The COVID-19 Origin Act of 2023, signed into law on March 20, 2023,⁴ requires the Office of the Director of National Intelligence to “declassify any and all information relating to potential links between the Wuhan Institute of Virology and the origin of the Coronavirus Disease 2019 (COVID-19).” However, the ODNI director has done little more in response to this law than to release a ten page, unclassified report⁵ with only five pages of substance. We filed a FOIA request for the declassified documents, but ODNI did not respond or give a determination on our request within the statutory timeframe. Given this delay, on August 10, 2023, we filed FOIA litigation against ODNI for the declassified documents. Ten months later, ODNI still has not produced any new records not previously released to the public, even though the law requires the relevant records to be declassified.

³ Available at: <https://usrtk.org/covid-19-origins/foi-litigation-on-origins-of-sars-cov-2-gain-of-function-2/>

⁴ S. 619, COVID-19 Origin Act of 2023. Available at: <https://www.congress.gov/bill/118th-congress/senate-bill/619/text>

⁵ Office of the Director of National Intelligence, “Potential Links Between the Wuhan Institute of Virology and the Origin of the COVID-19 Pandemic”. June 23, 2023. Available at: <https://www.dni.gov/files/ODNI/documents/assessments/Report-on-Potential-Links-Between-the-Wuhan-Institute-of-Virology-and-the-Origins-of-COVID-19-20230623.pdf>

National Institutes of Health

Since July 10, 2020, we have filed 35 FOIA requests with the National Institutes of Health related to high-risk virology research or the origins of COVID-19. Fifteen of these FOIA requests have been or currently are in litigation.

On November 8, 2021, we filed FOIA litigation against NIH for nine separate FOIA requests, including for communications between the NIH and EcoHealth Alliance or the Wuhan Institute of Virology.⁶ NIH failed to produce a single record for more than 16 months after we initiated litigation.⁷ NIH explained that thousands of pages of responsive records were being held in NIH's Office of the Director for what it called a "review" and "consultation with any government stakeholders prior to release."⁸ NIH has yet to produce thousands of pages responsive to these nine FOIA requests.

When NIH claims that it possesses "no responsive records," these claims sometimes do not appear to be accurate. For example, in August 2022, U.S. Right to Know filed a FOIA request with the National Library of Medicine (part of NIH) for all SARS-related coronavirus sequences that were submitted to the Sequence Read Archive (SRA) between 2016 and 2021 but were not released, or that were suppressed, withdrawn, deleted, or otherwise withheld from public view.⁹ After we filed litigation over this FOIA request, the assistant U.S. attorney told us that "there are no results and thus no responsive records" if the relevant part of the request were narrowed to cover through the end of 2019. However, in July 2022, over 100 SARS-related coronavirus spike sequences were accidentally released and subsequently suppressed about 10 days later. Screenshots of these sequences indicate that they were submitted in 2018, and therefore should have been produced in response to our request.¹⁰

NIH has also unlawfully withheld information about the origins of COVID-19 in other ways. In March, I testified at length before this committee about NIH's improper redaction of records,¹¹ and about evidence that NIH staff intentionally obstructed public records laws by using personal email addresses for official business. Since then, more troubling evidence has come to light

⁶ Complaint, U.S. Right to Know v. National Institutes of Health. Case 1:21-cv-02936-TSC, November 8, 2021.

Available at: <https://usrtk.org/wp-content/uploads/2021/11/USRtk-v-NIH-2.pdf>

⁷ Declaration of Gary Mark Ruskin, U.S. Right to Know v. National Institutes of Health. Case 1:21-cv-02936-TSC, March 16, 2023. Available at: <https://usrtk.org/wp-content/uploads/2023/03/USRtk-v-NIH-17-4.pdf>

⁸ Joint Status Report, U.S. Right to Know v. National Institutes of Health. Case 1:21-cv-02936-TSC, May 8, 2023. Available at: <https://usrtk.org/wp-content/uploads/2023/05/USRtk-v-NIH-21-JSR-050823.pdf>

⁹ FOIA request from Karolina Corin Ph.D. and Gary Ruskin, U.S. Right to Know, to Marianne Manheim, National Library of Medicine, August 22, 2022. Available at:

<https://usrtk.org/wp-content/uploads/2024/03/NCBI-FOIA-21-22.8.22.pdf>

¹⁰ Screenshots available at:

<https://usrtk.org/wp-content/uploads/2024/03/Screen-Shot-2024-02-26-at-10.19.11-PM.png>

<https://usrtk.org/wp-content/uploads/2024/03/Screen-Shot-2022-08-12-at-10.38.29-AM.png>

<https://usrtk.org/wp-content/uploads/2024/03/Screen-Shot-2022-08-12-at-10.38.47-AM.png>

¹¹ Testimony of Gary Ruskin, executive director of U.S. Right to Know before the U.S. Senate Committee on Homeland Security and Governmental Affairs, March 20, 2024. Available at:

<https://www.hsgac.senate.gov/wp-content/uploads/Testimony-Ruskin-2024-03-20.pdf>

showing that NIH staff, including its FOIA Office, may have evaded the Freedom of Information Act and the Federal Records Act, by deleting, or assisting in the deletion of, federal records concerning the origins of COVID-19 or EcoHealth Alliance.^{12 13 14 15 16}

Defense Intelligence Agency

On June 6, 2023, we sent a FOIA request to the Defense Intelligence Agency's National Center for Medical Intelligence for reports and records of communications reflecting DIA's knowledge of the early circumstances surrounding COVID-19 in its epicenter, Wuhan, China. The existence of this information was reported both by *ABC News*¹⁷ and *NBC News*.¹⁸ Last week, over a year after we filed our request, DIA told us that it found "no documents responsive" to our request.¹⁹

Federal Bureau of Investigation

Federal Bureau of Investigation Director Christopher Wray has said that, "The FBI has for quite some time now assessed that the origins of the pandemic are most likely a potential lab

¹² Staff memorandum, Republican staff, U.S. House of Representatives, Committee on Oversight and Accountability, Select Subcommittee on the Coronavirus Pandemic, Re: "Allegations of Wrongdoing and Illegal Activity by Dr. David Morens, Senior Advisor to National Institute of Allergy and Infectious Diseases former-Director, Dr. Anthony Fauci." May 22, 2024. Available at:

https://oversight.house.gov/wp-content/uploads/2024/05/SSCP-Staff-Memo_Morens-5.22.pdf.

¹³ Correspondence from Rep. Brad Wenstrup, chairman, House Select Subcommittee on the Coronavirus Pandemic to Monica Bertagnolli, director, National Institutes of Health, May 28, 2024. Available at:

https://oversight.house.gov/wp-content/uploads/2024/05/2024.05.28-BRW-Letter-to-NIH-Re.-FOIA_Redacted.pdf

¹⁴ Benjamin Muller, "Health Officials Tried to Evade Public Records Laws, Lawmakers Say." *New York Times*, May 28, 2024. Available at: <https://www.nytimes.com/2024/05/28/health/nih-officials-foia-hidden-emails-covid.html>

¹⁵ Emily Kopp, "Fauci aide triggers deeper concerns about hidden emails on COVID origins." US Right to Know, May 22, 2024. Available at:

<https://usrtk.org/covid-19-origins/fauci-aide-triggers-deeper-concerns-about-hidden-emails-on-covid-origins/>

¹⁶ Emily Kopp, "Fauci aide allegedly boasted about ability to 'make emails disappear' including 'smoking guns.'" US Right to Know, May 16, 2024. Available at:

<https://usrtk.org/covid-19-origins/fauci-aide-make-emails-disappear-including-smoking-guns/>

¹⁷ Josh Margolin and James Gordon Meek. "Intelligence report warned of coronavirus crisis as early as November: Sources." *ABC News*, April 9, 2020.

<https://abcnews.go.com/Politics/intelligence-report-warned-coronavirus-crisis-early-november-sources/story?id=70031273>

¹⁸ Ken Dilanian, Robert Windrem and Courtney Kube. "U.S. spy agencies collected raw intelligence hinting at public health crisis in Wuhan, China, in November." *NBC News*, April 10, 2020. Available at:

<https://www.nbcnews.com/politics/national-security/u-s-spy-agencies-collected-raw-intel-hinting-public-health-n1180646>

¹⁹ Correspondence from C.C. Davison, chief, records management and open government, Defense Intelligence Agency to Emily Kopp, US Right to Know, June 10, 2024. Available at:

<https://usrtk.org/wp-content/uploads/2024/06/DIA-response-letter-06.10.2024-.pdf>

incident in Wuhan.”^{20 21} We filed FOIA requests for the evidence underpinning this and other relevant statements and assessments. Exactly one year ago today, we filed two separate FOIA lawsuits for these records. So far, we have not received a single page of records from the FBI responsive to our two FOIA requests.

University of North Carolina at Chapel Hill

Since July 2, 2020, we have filed 15 North Carolina Public Records Law requests to the University of North Carolina seeking records of Professor Ralph Baric, a close collaborator of the Wuhan Institute of Virology, and other records possibly related to the origins of COVID-19. Among many other items, we requested emails containing the search term “DEFUSE,” which refers to the research proposal to the Defense Advanced Research Projects Agency to engineer coronaviruses with features seen in SARS-CoV-2, the virus that causes COVID-19.²²

In April 2022, we filed litigation in North Carolina for seven of these public records requests. That litigation is contesting for approximately 50,000 pages of University of North Carolina records.

In November 2023, North Carolina Judge Alyson Grine ordered the appointment of a referee in our case to “review the documents that the University has not disclosed and to provide a report to the Court and the parties as to whether the documents are subject to disclosure under the Public Records Act or protected by N.C. Gen. Stat. §116-43.17.”²³ The referee’s report has not yet been completed.

We believe that it is the responsibility of public universities – like the University of North Carolina – to help the public to learn all that can be learned about the origins of COVID-19.

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It is intolerable that more than four years after the pandemic began, there are still so many unanswered questions about its origins, and so much missing evidence – evidence that we citizens ought to have, and ought to have had years ago. But intransigence by the Chinese government, and U.S. federal and state agencies, have kept this evidence out of our grasp.

²⁰ Anumita Kaur and Dan Diamond, “FBI director says covid-19 ‘most likely’ originated from lab incident.” *Washington Post*, February 28, 2023. Available at: <https://www.washingtonpost.com/nation/2023/02/28/fbi-director-christopher-wray-wuhan-lab/>.

²¹ Adam Sabes, “FBI director says COVID pandemic ‘most likely’ originated from Chinese lab.” *Fox News*, February 28, 2023. Available at: <https://www.foxnews.com/politics/fbi-director-says-covid-pandemic-most-likely-originated-chinese-lab>

²² Emily Kopp, “US scientists proposed to make viruses with unique features of SARS-CoV-2 in Wuhan.” *US Right to Know*, January 18, 2024. Available at: <https://usrtk.org/covid-19-origins/scientists-proposed-making-viruses-with-unique-features-of-sars-cov-2-in-wuhan/>

²³ Order of North Carolina Resident Superior Court Judge Alyson Adams Grine, November 20, 2023. Available at: <https://usrtk.org/wp-content/uploads/2023/11/Order-22-CVS-463-USRTK-v-UNC.pdf>

It is the responsibility of our elected officials, and especially our President and members of Congress, to ensure that our public records laws work, and that we can get the answers we deserve about how COVID-19 came into being. We need this evidence to help protect against the next pandemic, which is surely coming. We owe it to the next generation to gather this evidence and to grapple with it, and hopefully to learn from it, so they may not suffer needlessly from a pandemic that could have been prevented.