

On Wednesday, February 24th, 2021 at 10:15 PM, [REDACTED] <[REDACTED]> wrote:

Dear Health Ministers,

I am writing to you on advice from the Australian Department of Health (the Department) to seek clarification on information requested in a Freedom of Information (FOI) request that was sent to the Department.

The Department's initial response on 24th August 2020 (attached: "Initial FOI 1937 Response"), stated: "To obtain the information you are seeking please direct your request to the various State and territory Departments of Health".

After further correspondence between the FOI author and the Department, a more formal response was given (attached: "FOI 1937"), yet the outcome remained the same.

I am therefore writing to you to on initial advice by the Department of Health to confirm whether you do hold the information requested in the original request to the Department, as shown in attachment "FOI 1937" and pasted again below:

*"All records in the possession, custody or control of The Department of Health describing the isolation of a SARS-COV-2 virus, directly from a sample taken from a diseased patient, where the patient sample was not first combined with any other source of genetic material (i.e. monkey kidney cells aka vero cells; lung cells from a lung cancer patient). Please note that I am using "isolation" in the every-day sense of the word: the act of separating a thing(s) from everything else. I am not requesting records where "isolation of SARS-COV-2" refers instead to:*

- the culturing of something,*
- or the performance of an amplification test (i.e. a PCR test),*
- or the sequencing of something.*

*Please also note that my request is not limited to records that were authored by The Department of Health or that pertain to work done by The Department of Health. My request includes any sort of record, for example (but not limited to) any published peer reviewed study that The Department of Health has downloaded or printed."*

I look forward to your response.

[REDACTED]

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**Fw: Letter from CEO, Canberra Health Services - Pathology (SARS-COV-2 virus)**

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Thu, Jul 15, 2021 at 12:00 AM

To: Christine Massey <cmssyo@gmail.com>, "Christine.Massey@protonmail.com" <Christine.Massey@protonmail.com>

Sent with ProtonMail Secure Email.

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

On Friday, March 19th, 2021 at 9:16 AM, CEOHealth <CEOHealth@act.gov.au> wrote:

**OFFICIAL**

Good morning

Please find attached a letter from the CEO, Canberra Health Services.

Kind regards

Nicole

**Nicole Stevenson** | Director

Office of the Chief Executive Officer | Canberra Health Services | ACT Government

T: 02 5124 4702 | M: 0411 154 648 | E: [nicole.stevenson@act.gov.au](mailto:nicole.stevenson@act.gov.au)

Building 28, Level 2, Canberra Hospital, Yamba Drive Garran ACT 2608

**RELIABLE | PROGRESSIVE | RESPECTFUL | KIND**

*CHS has flexible work practices, and I may be working at unusual times. If you receive my emails out of standard work hours, please know that I have no expectation that you will respond at that time.*

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This email, and any attachments, may be confidential and also privileged. If you are not the intended recipient, please notify the sender and delete all copies of this transmission along with any attachments immediately. You should not copy or use it for any purpose, nor disclose its contents to any other person.

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 Letter from CEO Canberra Health Services - Pathology.pdf



**ACT**  
Government

**Canberra Health  
Services**

[REDACTED]

Dear [REDACTED]

**Freedom of Information Request to Commonwealth Department of Health**

Thank you for your email of 24 February 2021 to Ms Rachel Stephen-Smith MLA, Minister for Health about your Freedom of Information request to the Commonwealth Department of Health, and seeking records describing isolation of a SARS-COV-2 virus directly from a sample taken from a diseased patient. Minister Stephen-Smith has asked me to reply on her behalf.

I am advised that ACT Pathology does not have the ability to isolate the virus from patient samples. Accordingly, I do not believe that the ACT Government holds any records relevant to your request.

Thank you for writing to the Minister about this matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bernadette McDonald'.

Bernadette McDonald  
**Chief Executive Officer**  
Canberra Health Services

19 March 2021

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**Fw: FOIA Request**

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James Smith <[REDACTED]> Mon, Aug 9, 2021 at 2:31 PM  
To: [REDACTED] Christine Massey <cmssyo@gmail.com>

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**From:** Reginald Rogers <Reginald.Rogers@arkansas.gov>  
**Sent:** Monday, August 9, 2021 1:28 PM  
**To:** James Smith <[REDACTED]>  
**Cc:** Laura Shue (ADH) <Laura.Shue@arkansas.gov>; Charles Thompson (ADH) <Charles.Thompson@arkansas.gov>; Brian Nichols (ADH) <Brian.Nichols@arkansas.gov>; S.Craig Smith <Stephan.Smith@arkansas.gov>; Michael St. Clair <Michael.StClair@arkansas.gov>; Tressa Williams (ADH) <Tressa.Williams@arkansas.gov>  
**Subject:** FW: FOIA Request

Attached are 2 emails from UAMS which refer to projects on looking for COVID 19 in wastewater. I have been informed by that the ADH Public Health Laboratory (PHL) does not purify the SARS-CoV-2 virus. I have not been provided with any reports or studies on "purification" of the Covid-19 virus. Thank you.

Reginald A. Rogers  
Deputy General Counsel  
Arkansas Department of Health  
4815 W. Markham St., Slot 31  
Little Rock, Arkansas 72205-3867

Phone : (501) 661 - 2609  
Cell : (501) 944 - 2962  
Fax : (501) 661 - 2357  
Email: [reginald.rogers@arkansas.gov](mailto:reginald.rogers@arkansas.gov)



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**From:** James Smith <[REDACTED]>  
**Sent:** Sunday, August 8, 2021 10:14 PM  
**To:** [coronavirus@arkansas.gov](mailto:coronavirus@arkansas.gov); Reginald Rogers <reginald.rogers@arkansas.gov>  
**Cc:** [REDACTED]

Subject: FOIA Request

## Arkansas FOIA Request

James W. Smith, DC



08/08/2021

Reginald Rogers

Custodian of Records

Arkansas Department of Health

4815 W. Markham St.

Little Rock, AR 72205

Dear Reginald Rogers:

Under the Arkansas Freedom of Information Act § 25-19-101 et seq., Description of Requested Records: All studies and/or reports in the possession, custody or control of the Arkansas Department of Health describing the purification of any "COVID-19 virus" (including "B.1.1.7", "B.1.351", "P.1" and any other "variant") (via maceration, filtration and use of an ultracentrifuge; also referred to at times by some people as "isolation"), directly from a sample taken from a diseased human, where the patient sample was not first combined with any other source of genetic material (i.e. monkey kidney cells aka Vero cells; fetal bovine serum). Please note that I am not requesting studies/reports where researchers failed to purify the suspected "virus" and instead: cultured an unpurified sample or other unpurified substance, and/or performed an amplification test (i.e. a PCR test) on all the RNA from a patient sample or from a cell culture, or on genetic material from any unpurified substance, and/or sequenced the total RNA from a patient sample or from a cell culture or from any unpurified substance, and/or produced electron microscopy images of unpurified things. For further clarity, please note I am already aware that according to virus theory a "virus" requires host cells in order to replicate, and I am not requesting records describing the replication of a "virus" without host cells. Further, I am not requesting records that describe a suspected "virus" floating in a vacuum; I am simply requesting records that describe its purification (separation from everything else in the patient sample, as per standard laboratory practices for the purification of other small things). Please also note that my request is not limited to records that were authored by the CDC or ATSDR or that pertain to work done at/by the CDC or ATSDR. Rather, my request includes any record matching the above description, for example (but not limited to) any published peer-reviewed study authored by anyone, anywhere, ever that has been downloaded or printed and relied on as evidence of a disease-causing "virus". If any records match the above description of requested records and are currently available to the public elsewhere, please provide enough information about each record so that I may identify and access each one with certainty (i.e. title, author(s), date, journal, where the public may access it). Please provide URLs where possible.

If there are any fees for searching or copying these records, please inform me if the cost will exceed \$100. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of the isolation of purified

SARS-COV-2. This information is not being sought for commercial purposes.

The Arkansas Freedom of Information Act requires a response within three business days. If access to the records I am requesting will take longer, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.

Sincerely,

Dr. James W. Smith

[REDACTED]

----- Forwarded message -----

From: David Ussery <daveussery@gmail.com>  
To: SUSAN HANRAHAN <hanrahan@astate.edu>, Jake Rice <jrice@jonesborocwl.org>  
Cc: Atul Kothari <Atul.Kothari@arkansas.gov>, "Robeson, Michael" <MRobeson@uams.edu>  
Bcc:  
Date: Wed, 24 Feb 2021 22:22:20 +0000  
Subject: Re: Water samples

Hi Susan, Jake,

Thanks for your email. I'll attach a PDF of my talk last week, along with a PDF of an NIH U01 grant that I wrote for looking at Covid-19 in Arkansas wastewater. Unfortunately, that grant didn't get funded, but I'm hoping that I can reuse some of the same ideas in other proposals. For example, the CDC is funding some projects along these lines, I think. We are thinking about applying for a small bit of internal funding to explore a project with ConwayCorp - they've already been looking for Covid-19 in their wastewater for several months now (in collaboration with a colleague in Tacoma, Washington). We're hoping to do some of the analysis locally, but are trying to figure out the logistics of this, in terms of biosafety approval for the labs. Perhaps we could set up a time to discuss this some more sometime? As a general rule, Fridays are free for me.

With best wishes,

Dave

> On Feb 24, 2021, at 11:08, SUSAN HANRAHAN <hanrahan@astate.edu> wrote:

>

> Dave, I am Susan Hanrahan, Dean of the College of Nursing and Health Profession at Arkansas State University. I listened to your ARA presentation last week and when you made a call for "water samples", I listened. I sit on the board of City Water and Light in Jonesboro (water, wastewater and electricity). I spent a little time with our CEO, Jake Rice, to explain your coronavirus quest through water treatment samples. I am hooking both of you up so you can better explain your project to Jake and he can see if CWL can be of any value to your research. Good luck and thanks for your good work! Susan

----- Forwarded message -----

From: "Ussery, David W" <DWUssery@uams.edu>  
To: Atul Kothari <Atul.Kothari@arkansas.gov>  
Cc:  
Bcc:  
Date: Thu, 7 Jan 2021 17:33:21 +0000  
Subject: quick question...

Hi Atul,

I've read that CDC is investing money in sequencing COVID-19, to keep track of the more virulent UK strain, for example.

Do you know anything about this?

I woke up this morning thinking about a grant for the ARA (Arkansas Research Alliance). It's due on the 11th of January (Monday), and I was thinking about asking for \$100,000, for sequencing COVID-19 from wastewater in Conway, Arkansas. What do you think of this? Would you be willing to help? There's a pretty good chance it'll get funded - last year they funded 12 grants out of 12 proposals (!).

p.s., still waiting to hear back from the NIH on my U01 grant (see attached). It was SUPPOSED to have started first of December, but with all the budget problems (we almost had a government shutdown a few weeks ago!) - the NIH program managers are just now going their budgets - HOPE to hear in the next week or two on that one - it'd be great if we got it, of course! I think it was a good proposal - and I see that Arkansas is now back in the 'top10', in terms of number of cases per 100,000 (see screenshot from this morning's paper)

With best wishes,

Dave

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Professor David W. Ussery, PhD  
Helen Adams & the Arkansas Research Alliance Chair in Biomedical Informatics  
University of Arkansas for Medical Sciences

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**8 attachments**



7113E4C0-B89A-4C56-B842-A7D9D4526DE8\_1\_101\_o.jpeg  
256K

 **ARA\_Project\_Scope\_17Feb2021\_f-compressed.pdf**  
5817K

 **4492952\_Egrant-compressed.pdf**  
3457K

 **Re: Water samples.eml**  
12706K

 **4492952\_Egrant-compressed.pdf**  
3336K

 **ATT00001.htm**  
2K

 **ATT00002.htm**  
2K

 **quick question....eml**  
4938K



Teor 

### Fale aqui

Solicito,todos os estudos e / ou relatórios em posse, custódia ou controle da Anvisa, FIOCRUZ, MINISTERIO DA SAUDE E MINISTERIO da CIENCIA descrevendo a purificação de qualquer "vírus COVID-19" (também conhecido como "SARS-COV-2", incluindo quaisquer alegadas "variantes", ou seja, " B.1.1.7 "," B.1.351 "," P.1 ") diretamente de uma amostra retirada de um ser humano doente, onde a amostra do paciente não foi combinada primeiro com qualquer outra fonte de material genético (ou





fonte de material genético (ou seja, células de rim de macaco aka Células Vero; soro fetal de bovino). Observe que não estou solicitando estudos / relatórios em que os pesquisadores não conseguiram purificar o "vírus" suspeito (separe o suposto "vírus" de tudo o mais na amostra do paciente) e, em vez disso: cultivou uma amostra não purificada ou outra substância não purificada, e / ou realizou um teste de amplificação (ou seja, um teste de PCR) no RNA total de uma amostra de paciente ou de uma cultura de células, ou no material genético de qualquer substância não purificada, e / ou fabricou um genoma com base em sequências detectadas por PCR no RNA total de uma amostra de





células ou de qualquer substância não purificada, e / ou produziu imagens de microscopia eletrônica de coisas não purificadas em uma cultura de células. Esclarecimento de Pedido Para maior clareza, observe que já estou ciente de que, de acordo com a teoria do vírus, um "vírus" requer células hospedeiras para se replicar e não estou solicitando registros que descrevam a replicação de um "vírus" sem células hospedeiras. Além disso, não estou solicitando registros que descrevam um "vírus" suspeito flutuando no vácuo; Estou simplesmente solicitando registros que descrevem sua purificação (separação de tudo o mais na amostra do paciente, de acordo com as práticas





minha solicitação inclui qualquer estudo / relatório que corresponda à descrição acima, por exemplo (mas não limitado a) qualquer estudo revisado por pares publicado de autoria de qualquer pessoa, em qualquer lugar. Observe também que, apesar do fato de que a purificação é uma etapa essencial (mas não suficiente) para provar a existência de um "vírus" causador de doenças. Portanto, no interesse da transparência e de acordo com os propósitos da legislação, se algum registro corresponder à descrição acima dos registros solicitados e estiver atualmente disponível ao público em outro lugar, forneça informações suficientes sobre cada registro para que eu possa identificar e





## Anexos Originais

Não foram encontrados registros.

## Manifestação



### **Tipo de manifestação**

Acesso à Informação

### **Número**

25072.018642/2021-85

### **Esfera**

Federal

### **Órgão destinatário**

ANVISA – Agência Nacional de  
Vigilância Sanitária

### **Serviço**

-

### **Órgão de interesse**

-

### **Assunto**



-  
**Assunto**

Acesso à informação

**Subassunto**

**Tag**

-

**Data de cadastro**

11/07/2021



**Prazo de atendimento**

02/08/2021

**Situação**

Concluída

**Registrado por**

Marcella picone

**Modo de resposta**

Pelo sistema (com avisos por email)

**Canal de entrada**

Internet

Recurso





# Anexos

## Respostas e históricos de ações

### Respostas



Publicação	Tipo	Responsável
+ 16/07/2021 11:29	Resposta Conclusiva	Gerência D Produtos Diagnóstico De Uso In Vitro (GEV)

### Histórico de ações

Data/Hora	Ação
+ 11/07/2021 16:24	Cadastro
+ 16/07/2021 11:29	Cadastro
+ 16/07/2021 11:29	Cadastro
+ 16/07/2021 11:29	Cadastro



29

Diagnósticos  
De Uso In  
Vitro (GEVIT)

texto

Prezado (a)  
Senhor(a),

Com base nas  
informações  
fornecidas pela  
Gerência De  
Produtos

Diagnósticos De Uso  
In Vitro (GEVIT), área  
técnica afeta ao  
assunto questionado,  
informamos que  
a informação  
solicitada não está  
disponível na  
Gerência de  
Produtos para  
diagnóstico in vitro  
da Anvisa.

Informações a cerca  
de purificação de  
vírus não são





informações  
requeridas para  
registro de produto  
para diagnóstico de  
Covid, de acordo  
com o disposto na  
RDC 36/2015.

Ademais, não temos  
produtos registrados  
com a finalidade de  
identificação de  
variantes de  
interesse do vírus  
sars-cov 2.

Em atendimento ao  
disposto no art. 11, §  
4º, da Lei 12.527/11,  
informamos que o  
requerente poderá  
registrar recurso na  
Plataforma Integrada  
de Ouvidoria e  
Acesso à Informação  
- Fala.BR, no prazo  
de 10 (dez) dias,  
contado da ciência





de 10 (dez) dias, contado da ciência da decisão, que será avaliado pelo Gerência-Geral de Tecnologia de Produtos para Saúde (GGTPS).



Para mais esclarecimentos, a Anvisa também disponibiliza a sua Central de Atendimento, por meio do 0800 642 9782 (dias úteis, das 7h30 às 19h30) e por meio eletrônico, no Fale Conosco:

(<http://www.anvisa.gov.br/institucional/faleconosco/FaleConosco.asp>)

Atenciosamente,

**DESPACHO Nº 268/2021/SEI/GGTPS/DIRE3/ANVISA**

Processo nº 25351.920427/2021-18

Interessado: CGTAI

Assunto: **Recurso de 1ª Instância Fala.BR NUP nº 25072018642202185**

A questão feita pelo protocolo SAT é genérica e solicita informação não disponível em âmbito da GGTPS:

"Solicito,todos os estudos e / ou relatórios em posse, custódia ou controle da Anvisa, FIOCRUZ, MINISTERIO DA SAUDE E MINISTERIO da CIENCIA descrevendo a purificação de qualquer "vírus COVID-19" (também conhecido como "SARS-COV-2", incluindo quaisquer alegadas "variantes", ou seja, " B.1.1.7 ", " B.1.351 ", " P.1 ") diretamente de uma amostra retirada de um ser humano doente, onde a amostra do paciente não foi combinada primeiro com qualquer outra fonte de material genético (ou seja, células de rim de macaco aka Células Vero; soro fetal de bovino). Observe que não estou solicitando estudos / relatórios em que os pesquisadores não conseguiram purificar o "vírus" suspeito (separe o suposto "vírus" de tudo o mais na amostra do paciente) e, em vez disso: cultivou uma amostra não purificada ou outra substância não purificada, e / ou realizou um teste de amplificação (ou seja, um teste de PCR) no RNA total de uma amostra de paciente ou de uma cultura de células, ou no material genético de qualquer substância não purificada, e / ou fabricou um genoma com base em sequências detectadas por PCR no RNA total de uma amostra de paciente ou de uma cultura de células ou de qualquer substância não purificada, e / ou produziu imagens de microscopia eletrônica de coisas não purificadas em uma cultura de células. Esclarecimento de Pedido Para maior clareza, observe que já estou ciente de que, de acordo com a teoria do vírus, um "vírus" requer células hospedeiras para se replicar e não estou solicitando registros que descrevam a replicação de um "vírus" sem células hospedeiras. Além disso, não estou solicitando registros que descrevam um "vírus" suspeito fluando no vácuo; Estou simplesmente solicitando registros que descrevem sua purificação (separação de tudo o mais na amostra do paciente, de acordo com as práticas laboratoriais padrão para a purificação de outras coisas muito pequenas). Observe que minha solicitação inclui qualquer estudo / relatório que corresponda à descrição acima, por exemplo (mas não limitado a) qualquer estudo revisado por pares publicado de autoria de qualquer pessoa, em qualquer lugar. Observe também que, apesar do fato de que a purificação é uma etapa essencial (mas não suficiente) para provar a existência de um "vírus" causador de doenças. Portanto, no interesse da transparência e de acordo com os propósitos da legislação, se algum registro corresponder à descrição acima dos registros solicitados e estiver atualmente disponível ao público em outro lugar, forneça informações suficientes sobre cada registro para que eu possa identificar e acessar cada um com certeza (ou seja, título, autor (es), data, periódico, onde o público pode acessá-lo). Forneça URLs sempre que possível. Grata desde já. Aguardo retorno."

Diante do questionamento genérico e de informação não disponível nessa GEVIT/GGTPS a resposta encaminhada foi:

Prezado (a) Senhor(a), Com base nas informações fornecidas pela Gerência De Produtos Diagnósticos De Uso In Vitro (GEVIT), área técnica afeta ao assunto questionado, informamos que a informação solicitada não está disponível na Gerência de Produtos para diagnóstico in vitro da Anvisa. Informações a cerca de purificação de vírus não são informações requeridas para registro de

[https://sei.anvisa.gov.br/sei/controlador.php?acao=documento\\_imprimir\\_web&acao\\_origem=arvore\\_visualizar&id\\_documento=1718195&infra\\_sis...](https://sei.anvisa.gov.br/sei/controlador.php?acao=documento_imprimir_web&acao_origem=arvore_visualizar&id_documento=1718195&infra_sis...) 1/2

produto para diagnóstico de Covid, de acordo com o disposto na RDC 36/2015. Ademais, não temos produtos registrados com a finalidade de identificação de variantes de interesse do vírus sars-cov 2. Em atendimento ao disposto no art. 11, § 4o, da Lei 12.527/11, informamos que o requerente poderá registrar recurso na Plataforma Integrada de Ouvidoria e Acesso à Informação - Fala.BR, no prazo de 10 (dez) dias, contado da ciência da decisão, que será avaliado pelo Gerência Geral de Tecnologia de Produtos para Saúde (GGTPS). Para mais esclarecimentos, a Anvisa também disponibiliza a sua Central de Atendimento, por meio do 0800 642 9782 (dias úteis, das 7h30 às 19h30) e por meio eletrônico, no Fale Conosco: (<http://www.anvisa.gov.br/institucional/faleconosco/> FaleConosco.a sp) Atenciosamente, Agência Nacional de Vigilância Sanitária

A resposta foi adequada, visto que a GEVIT/GGTPS não pode disponibilizar informação que não detém. **Neste sentido, indefiro o recurso apresentado.**

# Plataforma Integrada de Ouvidoria e Acesso à Informação

## Detalhes da Manifestação

### Dados Básicos da Manifestação

Tipo de Manifestação: Acesso à Informação

Esfera: Federal

NUP: 25072.019256/2021-19

Órgão Destinatário: MS – Ministério da Saúde

Órgão de Interesse:

Assunto: Outros em Saúde

Subassunto:

Data de Cadastro: 16/07/2021

Situação: Concluída

Data limite para resposta: 09/08/2021

Canal de Entrada: Internet

Modo de Resposta: Pelo sistema (com avisos por email)

Registrado Por: Cidadão

Tipo de formulário: Acesso à Informação

Serviço:

Outro Serviço:

### Teor da Manifestação

Extrato: Solicito todos os estudos e ou, relatórios em posse ou controle, Ministério da saúde e Fiocruz ou Qualquer órgão responsável, descrevendo a purificação de qualquer " vírus covid 19", ( também conhecido como sars cov 2), incluindo quaisquer alegadas "variantes" diretamente de uma amostra retirada de um ser humano doente, onde a amostra do paciente não foi combinada previamente com qualquer outra fonte de material genético ( ou seja células de rim de macaco, aka, células vero, soro fetal de bovino). Observe que não estou solicitando estudos/relatórios em que os pesquisadores não conseguiram purificar o "virus" suspeito( separe o suposto vírus de tudo O mais na amostra do paciente e, invés disso: cultivou uma amostra não purificada ou outra substância não purificada, é ou, realizou um teste de amplificação, ou seja pcr). No rna total de uma amostra de paciente ou de uma cultura de células, ou no material genético de qualquer substância não purificada, é ou fabricou um genoma com base em sequências detectadas por pcr no rna total de uma amostra de paciente ou de uma cultura de células ou de qualquer substância não purificada, é ou produziu imagens de microscopia eletrônica boca de coisas não purificadas em uma cultura de células.

Esclarecimento de pedido para maior clareza, observe que já estou ciente de que, de acordo com a teoria do vírus, um vírus requer células hospedeiras para se replicar e não estou solicitando registros que descrevam a replicação de um vírus suspeito flutuando no vácuo; estou solicitando registros que descrevam sua purificação(separação de tudo ou mais na amostra do paciente, de acordo com as práticas laboratoriais padrão para a purificação de coisas pequenas). Observe que minha solicitação inclui qualquer estudo/relatório

# Plataforma Integrada de Ouvidoria e Acesso à Informação

## Detalhes da Manifestação

que corresponda a descrição acima, por exemplo ('mas não limitado a) qualquer estudo revisado por pares publicado de autoria de qualquer pessoa, em qualquer lugar. Observe também que, apesar do fato de que a purificação é uma etapa essencial( mas não suficiente) para provar a existência de um vírus causador de doenças.

Portanto, no interesse da transparência e de acordo com os propósitos da legislação, se algum registro corresponder a descrição acima dos registros solicitados e estiver atualmente disponível em outro local, forneça informações suficientes sobre cada registro para que eu possa identificar e acessar cada um certeza (ou seja título, autor, data, periódico). Forneça url sempre que possível.

Grata desde já  
Aguardo retorno.

Proposta de melhoria:

Município do local do fato:

UF do local do fato:

Local:

Não há anexos originais da manifestação.

Não há anexos complementares.

Não há textos complementares.

Não há envolvidos na manifestação.

### Campos Adicionais

Não há campos adicionais.

### Dados das Respostas

Tipo de Resposta	Data/Hora	Teor da Resposta	Decisão	Compromisso	Anexos
Resposta Conclusiva	22/07/2021 15:42	A presente demanda não dispõe de clareza de dados para que seja possível compreender a informação requerida pela interessada, porquanto solicita: "SOLICITO TODOS OS ESTUDOS E OU, RELATÓRIOS EM POSSE OU CONTROLE, MINISTÉRIO DA SAÚDE E FIOCRUZ OU QUALQUER	Informação Inexistente		

# Plataforma Integrada de Ouvidoria e Acesso à Informação

## Detalhes da Manifestação

	<p>ÓRGÃO RESPONSÁVEL, DESCRREVENDO A PURIFICAÇÃO DE QUALQUER " VÍRUS COVID 19", (TAMBÉM CONHECIDO COMO SARS COV 2), INCLUINDO QUAISQUER ALEGADAS "VARIANTES" DIRETAMENTE DE UMA AMOSTRA RETIRADA DE UM SER HUMANO DOENTE, ONDE A AMOSTRA DO PACIENTE NÃO FOI COMBINADA PREVIAMENTE COM QUALQUER OUTRA FONTE DE MATERIAL GENÉTICO ( OU SEJA CÉLULAS DE RIM DE MACACO, AKA, CÉLULAS VERO, SORO FETAL DE BOVINO). OBSERVE QUE NÃO ESTOU SOLICITANDO ESTUDOS/RELATÓRIOS EM QUE OS PESQUISADORES NÃO CONSEGUIRAM PURIFICAR O "VIRUS" SUSPEITO( SEPARE O SUPOSTO VÍRUS DE TUDO O MAIS NA AMOSTRA DO PACIENTE E, INVÉS DISSO: CULTIVOU UMA AMOSTRA NÃO PURIFICADA OU OUTRA SUBSTÂNCIA NÃO PURIFICADA, É OU, REALIZOU UM TESTE DE AMPLIFICAÇÃO, OU SEJA PCR). NO RNA TOTAL DE UMA AMOSTRA DE PACIENTE OU DE UMA CULTURA DE CÉLULAS, OU NO MATERIAL GENÉTICO DE QUALQUER SUBSTÂNCIA NÃO PURIFICADA, É OU FABRICOU UM GENOMA COM BASE EM SEQUÊNCIAS DETECTADAS POR PCR NO RNA TOTAL DE UMA AMOSTRA DE PACIENTE OU DE UMA CULTURA DE CÉLULAS OU DE QUALQUER SUBSTÂNCIA NÃO PURIFICADA, É OU PRODUZIU IMAGENS DE MICROSCOPIA ELETRÔNICABOCA DE COISAS NÃO PURIFICADAS EM UMA CULTURA DE CÉLULAS. ESCLARECIMENTO DE</p>			
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# Plataforma Integrada de Ouvidoria e Acesso à Informação

## Detalhes da Manifestação

	<p>PEDIDO PARA MAIOR CLAREZA, OBSERVE QUE JÁ ESTOU CIENTE DE QUE, DE ACORDO COM A TEORIA DO VÍRUS, UM VÍRUS REQUER CÉLULAS HOSPEDEIRAS PARA SE REPLICAR E NÃO ESTOU SOLICITANDO REGISTROS QUE DESCREVAM A REPLICAÇÃO DE UM VÍRUS SUSPEITO FLUTUANDO NO VÁCUO; ESTOU SOLICITANDO REGISTROS QUE DESCREVAM SUA PURIFICACAO(SEPARAÇÃO DE TUDO OU MAIS NA AMOSTRA DO PACIENTE, DE ACORDO COM AS PRÁTICAS LABORATORIAIS PADRÃO PARA A PURIFICAÇÃO DE COISAS PEQUENAS). OBSERVE QUE MINHA SOLICITAÇÃO INCLUI QUALQUER ESTUDO/RELATÓRIO QUE CORRESPONDA A DESCRIÇÃO ACIMA, POR EXEMPLO ("MAS NÃO LIMITADO A) QUALQUER ESTUDO REVISADO POR PARES PUBLICADO DE AUTORIA DE QUALQUER PESSOA, EM QUALQUER LUGAR. OBSERVE TAMBÉM QUE, APESAR DO FATO DE QUE A PURIFICAÇÃO É UMA ETAPA ESSNCIAL( MAS NÃO SUFICIENTE) PARA PROVAR A EXISTÊNCIA DE UM VÍRUS CAUSADOR DE DOENÇAS. PORTANTO, NO INTERESSE DA TRANSPARÊNCIA E DE ACORDO COM OS PROPÓSITOS DA LEGISLAÇÃO, SE ALGUM REGISTRO CORRESPONDER A DESCRIÇÃO ACIMA DOS REGISTROS SOLICITADOS E ESTIVER ATUALMENTE DISPONÍVEL EM OUTRO LOCAL, FORNEÇA INFORMAÇÕES SUFICIENTES SOBRE CADA REGISTRO PARA QUE EU POSSA IDENTIFICAR E ACESSAR CADA UM." Dessa forma, impossibilitada a identificação</p>			
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# Plataforma Integrada de Ouvidoria e Acesso à Informação

## Detalhes da Manifestação

	<p>e a compreensão da solicitação, a demanda enquadra-se como informação inexistente, com ausência de dados claros e concretos para atendimento. Fundamento: Inciso III do §1º do art. 11, da Lei nº 12.527, de 18 de novembro de 2011, in verbis: "Art. 11. O órgão ou entidade pública deverá autorizar ou conceder o acesso imediato à informação disponível. § 1º Não sendo possível conceder o acesso imediato, na forma disposta no caput, o órgão ou entidade que receber o pedido deverá, em prazo não superior a 20 (vinte) dias: I - comunicar a data, local e modo para se realizar a consulta, efetuar a reprodução ou obter a certidão; II - indicar as razões de fato ou de direito da recusa, total ou parcial, do acesso pretendido; ou III - comunicar que não possui a informação, indicar, se for do seu conhecimento, o órgão ou a entidade que a detém, ou, ainda, remeter o requerimento a esse órgão ou entidade, cientificando o interessado da remessa de seu pedido de informação." (Grifos adotados).</p>			
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### Dados do recurso - Primeira Instância

Destinatário	MS – Ministério da Saúde
Data de Abertura	22/07/2021 15:44
Prazo de Atendimento	27/07/2021 23:59
Tipo de Recurso	Informação recebida não corresponde à solicitada
Origem da Solicitação	Internet

#### Justificativa

O questionamento passado ao ministério da saúde do Brasil, foi exatamente o mesmo encaminhado para mais de 40 países no mundo, todos entenderam a solicitação e enviaram suas respostas prontamente.

Solicito, todo e qualquer estudo/artigo que demonstre a purificação/isolamento, do "virus" sars cov 2 causador da "covid", que não tenha sido infectado e ou manipulado com nenhuma célula ou tratamento genético.

A resposta de não entendimento da pergunta, vindo do ministério da saúde, não é apenas insatisfatória, mas me faz crer que tentam desviar da resposta solicitada.

Para as análises de todos os procedimentos que estão fazendo se vê necessário o isolamento do vírus seguindo os postulados de Kochs, para isso ou isolamento e ou purificação do vírus seguindo o postulado de Kochs deve estar nas mãos do ministério da saúde, Fiocruz e Instituto Butantã, eu quero todos os estudos, artigos, bibliografia que comprovem aos moldes da pergunta acima, o isolamento do vírus.

Grata.

# Plataforma Integrada de Ouvidoria e Acesso à Informação

## Detalhes da Manifestação

### Resposta do recurso - Primeira Instância

Não há registro de resposta

### Denúncia de descumprimento

Não há registro de denúncias de descumprimento.

### Dados de Encaminhamento

Não há registros de encaminhamento.

### Dados de Prorrogação

Não há registros de prorrogações.

# Plataforma Integrada de Ouvidoria e Acesso à Informação

## Detalhes da Manifestação

### Dados Básicos da Manifestação

Tipo de Manifestação: Acesso à Informação

Esfera: Federal

NUP: 25072.019256/2021-19

Órgão Destinatário: MS – Ministério da Saúde

Órgão de Interesse:

Assunto: Outros em Saúde

Subassunto:

Data de Cadastro: 16/07/2021

Situação: Concluída

Data limite para resposta: 09/08/2021

Canal de Entrada: Internet

Modo de Resposta: Pelo sistema (com avisos por email)

Registrado Por: Marcella picone

Tipo de formulário: Acesso à Informação

Serviço:

Outro Serviço:

### Teor da Manifestação

Extrato: Solicito todos os estudos e ou, relatórios em posse ou controle, Ministério da saúde e Fiocruz ou Qualquer órgão responsável, descrevendo a purificação de qualquer " vírus covid 19", ( também conhecido como sars cov 2), incluindo quaisquer alegadas "variantes" diretamente de uma amostra retirada de um ser humano doente, onde a amostra do paciente não foi combinada previamente com qualquer outra fonte de material genético ( ou seja células de rim de macaco, aka, células vero, soro fetal de bovino). Observe que não estou solicitando estudos/relatórios em que os pesquisadores não conseguiram purificar o "virus" suspeito( separe o suposto vírus de tudo O mais na amostra do paciente e, invés disso: cultivou uma amostra não purificada ou outra substância não purificada, é ou, realizou um teste de amplificação, ou seja pcr). No rna total de uma amostra de paciente ou de uma cultura de células, ou no material genético de qualquer substância não purificada, é ou fabricou um genoma com base em sequências detectadas por pcr no rna total de uma amostra de paciente ou de uma cultura de células ou de qualquer substância não purificada, é ou produziu imagens de microscopia eletrônica boca de coisas não purificadas em uma cultura de células.

Esclarecimento de pedido para maior clareza, observe que já estou ciente de que, de acordo com a teoria do vírus, um vírus requer células hospedeiras para se replicar e não estou solicitando registros que descrevam a replicação de um vírus suspeito flutuando no vácuo; estou solicitando registros que descrevam sua purificação(separação de tudo ou mais na amostra do paciente, de acordo com as práticas laboratoriais padrão para a purificação de coisas pequenas). Observe que minha solicitação inclui qualquer estudo/relatório

## Plataforma Integrada de Ouvidoria e Acesso à Informação Detalhes da Manifestação

que corresponda a descrição acima, por exemplo (mas não limitado a) qualquer estudo revisado por pares publicado de autoria de qualquer pessoa, em qualquer lugar. Observe também que, apesar do fato de que a purificação é uma etapa essencial (mas não suficiente) para provar a existência de um vírus causador de doenças.

Portanto, no interesse da transparência e de acordo com os propósitos da legislação, se algum registro corresponder a descrição acima dos registros solicitados e estiver atualmente disponível em outro local, forneça informações suficientes sobre cada registro para que eu possa identificar e acessar cada um com certeza (ou seja título, autor, data, periódico). Forneça url sempre que possível.

Grata desde já  
Aguardo retorno.

Proposta de melhoria:

Município do local do fato:

UF do local do fato:

Local:

Não há anexos originais da manifestação.

Não há anexos complementares.

Não há textos complementares.

Não há envolvidos na manifestação.

### Dados do Usuário

Tipo de identificação: Identificado com Restrição

Pedido de restrição de identidade: Não

Tipo de Pessoa: Física

País: Brasil

Nome: Marcella picone

Dados de identificação:	Tipo de Documento	Número do Documento
	CPF	33219835822

Email: [REDACTED]

Telefone:

CEP:

UF:

Município:

Logradouro:

# Plataforma Integrada de Ouvidoria e Acesso à Informação

## Detalhes da Manifestação

Número:  
Complemento:  
Bairro:  
Dados Complementares:      Gênero:  
Data de Nascimento:  
Cor/Raça:  
Escolaridade:  
Profissão:

### Campos Adicionais

Não há campos adicionais.

### Dados das Respostas

Tipo de Resposta	Data/Hora	Teor da Resposta	Decisão	Compromisso	Anexos
Resposta Conclusiva	22/07/2021 15:42	A presente demanda não dispõe de clareza de dados para que seja possível compreender a informação requerida pela interessada, porquanto solicita: "SOLICITO TODOS OS ESTUDOS E OU, RELATÓRIOS EM POSSE OU CONTROLE, MINISTÉRIO DA SAÚDE E FIOCRUZ OU QUALQUER ÓRGÃO RESPONSÁVEL, DESCREVENDO A PURIFICAÇÃO DE QUALQUER " VÍRUS COVID 19", (TAMBÉM CONHECIDO COMO SARS COV 2), INCLUINDO QUAISQUER ALEGADAS "VARIANTES" DIRETAMENTE DE UMA AMOSTRA RETIRADA DE	Informação Inexistente		

# Plataforma Integrada de Ouvidoria e Acesso à Informação

## Detalhes da Manifestação

	<p>UM SER HUMANO DOENTE, ONDE A AMOSTRA DO PACIENTE NÃO FOI COMBINADA PREVIAMENTE COM QUALQUER OUTRA FONTE DE MATERIAL GENÉTICO ( OU SEJA CÉLULAS DE RIM DE MACACO, AKA, CÉLULAS VERO, SORO FETAL DE BOVINO). OBSERVE QUE NÃO ESTOU SOLICITANDO ESTUDOS/RELATÓRIOS EM QUE OS PESQUISADORES NÃO CONSEGUIRAM PURIFICAR O "VIRUS" SUSPEITO( SEPARE O SUPOSTO VÍRUS DE TUDO O MAIS NA AMOSTRA DO PACIENTE E, INVÉS DISSO: CULTIVOU UMA AMOSTRA NÃO PURIFICADA OU OUTRA SUBSTÂNCIA NÃO PURIFICADA, É OU, REALIZOU UM TESTE DE AMPLIFICAÇÃO, OU SEJA PCR). NO RNA TOTAL DE UMA AMOSTRA DE PACIENTE OU DE UMA CULTURA DE CÉLULAS, OU NO MATERIAL GENÉTICO DE QUALQUER SUBSTÂNCIA NÃO PURIFICADA, É OU FABRICOU UM GENOMA COM BASE EM SEQUÊNCIAS DETECTADAS POR PCR NO RNA TOTAL DE UMA AMOSTRA DE PACIENTE OU DE UMA CULTURA DE CÉLULAS OU DE QUALQUER SUBSTÂNCIA NÃO PURIFICADA, É OU PRODUZIU IMAGENS DE MICROSCOPIA ELETRÔNICA BOCA DE COISAS NÃO PURIFICADAS EM UMA CULTURA DE CÉLULAS.</p> <p>ESCLARECIMENTO DE PEDIDO PARA MAIOR CLAREZA, OBSERVE QUE JÁ ESTOU CIENTE DE QUE, DE ACORDO COM A TEORIA DO VÍRUS, UM VÍRUS REQUER CÉLULAS HOSPEDEIRAS PARA SE REPLICAR E NÃO ESTOU SOLICITANDO REGISTROS QUE DESCREVAM A</p>			
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# Plataforma Integrada de Ouvidoria e Acesso à Informação

## Detalhes da Manifestação

	<p>REPLICAÇÃO DE UM VÍRUS SUSPEITO FLUTUANDO NO VÁCUO; ESTOU SOLICITANDO REGISTROS QUE DESCREVAM SUA PURIFICACAO(SEPARAÇÃO DE TUDO OU MAIS NA AMOSTRA DO PACIENTE, DE ACORDO COM AS PRÁTICAS LABORATORIAIS PADRÃO PARA A PURIFICAÇÃO DE COISAS PEQUENAS). OBSERVE QUE MINHA SOLICITAÇÃO INCLUI QUALQUER ESTUDO/RELATÓRIO QUE CORRESPONDA A DESCRIÇÃO ACIMA, POR EXEMPLO ("MAS NÃO LIMITADO A) QUALQUER ESTUDO REVISADO POR PARES PUBLICADO DE AUTORIA DE QUALQUER PESSOA, EM QUALQUER LUGAR. OBSERVE TAMBÉM QUE, APESAR DO FATO DE QUE A PURIFICAÇÃO É UMA ETAPA ESSNCIAL( MAS NÃO SUFICIENTE) PARA PROVAR A EXISTÊNCIA DE UM VÍRUS CAUSADOR DE DOENÇAS. PORTANTO, NO INTERESSE DA TRANSPARÊNCIA E DE ACORDO COM OS PROPÓSITOS DA LEGISLAÇÃO, SE ALGUM REGISTRO CORRESPONDER A DESCRIÇÃO ACIMA DOS REGISTROS SOLICITADOS E ESTIVER ATUALMENTE DISPONÍVEL EM OUTRO LOCAL, FORNEÇA INFORMAÇÕES SUFICIENTES SOBRE CADA REGISTRO PARA QUE EU POSSA IDENTIFICAR E ACESSAR CADA UM." Dessa forma, impossibilitada a identificação e a compreensão da solicitação, a demanda enquadra-se como informação inexistente, com ausência de dados claros e concretos para atendimento. Fundamento: Inciso III do §1º do art. 11, da Lei nº 12.527, de 18 de novembro de 2011, in verbis: "Art. 11. O órgão ou</p>			
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# Plataforma Integrada de Ouvidoria e Acesso à Informação

## Detalhes da Manifestação

	entidade pública deverá autorizar ou conceder o acesso imediato à informação disponível. § 1º Não sendo possível conceder o acesso imediato, na forma disposta no caput, o órgão ou entidade que receber o pedido deverá, em prazo não superior a 20 (vinte) dias: I - comunicar a data, local e modo para se realizar a consulta, efetuar a reprodução ou obter a certidão; II - indicar as razões de fato ou de direito da recusa, total ou parcial, do acesso pretendido; ou III - comunicar que não possui a informação, indicar, se for do seu conhecimento, o órgão ou a entidade que a detém, ou, ainda, remeter o requerimento a esse órgão ou entidade, cientificando o interessado da remessa de seu pedido de informação." (Grifos adotados).			
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### Dados do recurso - Primeira Instância

Destinatário	MS – Ministério da Saúde
Data de Abertura	22/07/2021 15:44
Prazo de Atendimento	27/07/2021 23:59
Tipo de Recurso	Informação recebida não corresponde à solicitada
Origem da Solicitação	Internet

#### *Justificativa*

O questionamento passado ao ministério da saúde do Brasil, foi exatamente o mesmo encaminhado para mais de 40 países no mundo, todos entenderam a solicitação e enviaram suas respostas prontamente.

Solicito, todo e qualquer estudo/artigo que demonstre a purificação/isolamento, do "virus" sars cov 2 causador da "covid", que não tenha sido infectado e ou manipulado com nenhuma célula ou tratamento genético.

A resposta de não entendimento da pergunta, vindo do ministério da saúde, não é apenas insatisfatória, mas me faz crer que tentam desviar da resposta solicitada.

Para as análises de todos os procedimentos que estão fazendo se vê necessário o isolamento do vírus seguindo os postulados de Kochs, para isso ou isolamento e ou purificação do vírus seguindo o postulado de kochs deve estar nas mãos do ministério da saúde, Fiocruz e Instituto Butantã, eu quero todos os estudos, artigos, bibliografia que comprovem aos moldes da pergunta acima, o isolamento do vírus.

Grata.

### Resposta do recurso - Primeira Instância

Data da Resposta	28/07/2021 10:58
Prazo para disponibilizar informação	
Tipo de Resposta	Indeferido

#### *Justificativa*

# Plataforma Integrada de Ouvidoria e Acesso à Informação

## Detalhes da Manifestação

Trata-se de recurso administrativo de 1º instância interposto contra manifestação deste Departamento de Ciência e Tecnologia - Decit/SCTIE/MS, com o seguinte teor: Justificativa do Recurso: "O questionamento passado ao ministério da saúde do Brasil, foi exatamente o mesmo encaminhado para mais de 40 países no mundo, todos entenderam a solicitação e enviaram suas respostas prontamente. Solicito, todo e qualquer estudo/artigo que demonstre a purificação/isolamento, do "virus" sars cov 2 causador da "covid", que não tenha sido infectado e ou manipulado com nenhuma célula ou tratamento genético. A resposta de não entendimento da pergunta, vindo do ministério da saúde, não é apenas insatisfatória, mas me faz crer que tentam desviar da resposta solicitada. Para as análises de todos os procedimentos que estão fazendo se vê necessário o isolamento do vírus seguindo os postulados de Kochs, para isso ou isolamento e ou purificação do vírus seguindo o postulado de Kochs deve estar nas mãos do ministério da saúde, Fiocruz e Instituto Butantã, eu quero todos os estudos, artigos, bibliografia que comprovem aos moldes da pergunta acima, o isolamento do vírus." Nesse sentido, segue minuta de manifestação em resposta ao presente recurso de 1ª Instância: Resposta: Senhora Marcella Picone, Em análise ao presente processo de acesso à informação, observa-se que a prévia manifestação deste Ministério da Saúde informou que a demanda não dispunha de clareza de dados para que fosse possível compreender a informação requerida. Em instância recursal, a interessada requer ao Ministério da Saúde todo e qualquer estudo/artigo que demonstre a purificação/isolamento, do "virus" sars cov 2 causador da "covid", que não tenha sido infectado e/ou manipulado com nenhuma célula ou tratamento genético. No que tange a artigos científicos com relação ao vírus SARS-CoV-2, registre-se que o acesso a esses arquivos são públicos e podem ser buscados diretamente pela solicitante. Comunique-se, a propósito, os canais de acesso às informações disponibilizadas por este Departamento de Ciência e Tecnologia (Decit/SCTIE/MS), concernentes ao enfrentamento da pandemia da Covid-19, a saber: Relatórios de monitoramento de vacinas (<https://www.gov.br/saude/pt-br/coronavirus/vacinas/relatorios-de-monitoramento-sctie>): O Ministério da Saúde monitora o desenvolvimento global de candidatas a vacinas contra Sars-CoV-2. No relatório abaixo, foram consolidadas as informações técnicas e científicas sobre as pesquisas em andamento, bem como o detalhamento das fases clínicas de cada candidata à vacina para a Covid-19. Painel de evidências científicas sobre tratamento farmacológico e vacinas - Covid-19 ([https://qsprod.saude.gov.br/extensions/evidencias\\_covid/evidencias\\_covid.html](https://qsprod.saude.gov.br/extensions/evidencias_covid/evidencias_covid.html)): Plataforma que tem como objetivo reunir em tempo real as informações sobre publicações técnico-científicas de revistas indexadas e em pré-impressão que investigam a eficácia, segurança e efetividade de medicamentos e produtos biológicos usados para tratamento e prevenção da doença provocada pelo novo coronavírus. Observatório Plataforma Brasil (<https://observatoriopb.cienciasus.gov.br/>): No Observatório da Plataforma Brasil – OPB, é possível acessar todos os protocolos de pesquisa relacionados ao coronavírus e/ou à Covid-19 publicados nos Boletins Ética em Pesquisa - Edição Especial Coronavírus (Covid-19), que informam novos protocolos originais de pesquisa sobre Covid-19 aprovados no âmbito da Comissão Nacional de Ética em Pesquisa - CONEP, além de viabilizar o download pelos usuários, em formatos como Excel e CSV. O site também contém informações sobre os objetivos do projeto OPB. Informes de variantes Sars Cov 2 (<https://www.gov.br/saude/pt-br/coronavirus/publicacoes-tecnicas/informes-de-variantes>): O Informe Semanal de Evidências sobre Variantes de Atenção do SARS-CoV-2 tem o objetivo de acompanhar e relatar as mais recentes evidências descritas em publicações científicas e na literatura cinzenta sobre as principais variantes de SARS-CoV-2 circulantes no Brasil e no mundo, bem como as implicações destas para a saúde. Para tanto, são realizadas buscas estruturadas em bases de dados de indexação de periódicos científicos revisados pelos pares, de artigos no formato pré-print e de literatura cinzenta. Conforme informado, os artigos científicos encontrados nos referidos endereços eletrônicos são de acesso público e podem ser localizados diretamente pela solicitante, na medida em que tal ação impõe à Administração Pública trabalho adicional, na circunstância em que esta Pasta Ministerial está envidando o máximo de esforços nas ações de enfrentamento à pandemia de Covid-19 (SARS-CoV-2). Fundamento: A presente demanda enquadra-se no inciso III do art. 13, do Decreto nº 7.724, de 16 de maio de 2012, que Regulamenta a Lei nº 12.527, de 18 de novembro de 2011, a qual dispõe sobre o acesso a informações previsto no inciso XXXIII do caput do art. 5º, no inciso II do § 3º do art. 37 e no § 2º do art. 216 da Constituição, in verbis: "Art. 13. Não serão atendidos pedidos de acesso à informação: I - genéricos; II - desproporcionais ou desarrazoados; ou III - que exijam trabalhos adicionais de análise, interpretação ou consolidação de dados e informações, ou serviço de produção ou tratamento de dados que não seja de competência do órgão ou entidade. Parágrafo único. Na hipótese do inciso III do caput, o órgão ou entidade deverá, caso tenha conhecimento, indicar o local onde se encontram as informações a partir das quais o requerente poderá realizar a interpretação, consolidação ou tratamento de dados." (Grifos adotados). Ante o

# Plataforma Integrada de Ouvidoria e Acesso à Informação

## Detalhes da Manifestação

exposto, indefere-se o presente recurso administrativo, com fulcro no inciso III do art. 13 do Decreto nº 7.724, de 16 de maio de 2012.

Responsável pela resposta	Diretor(a) do Departamento de Ciência e Tecnologia
Destinatário do recurso da próxima instância	Ministro de Estado da Saúde
Prazo limite para recurso	09/08/2021 23:59
Contém informações pessoais ou protegidas por outras hipóteses de sigilo?	Não

### Dados do recurso - Segunda Instância

Destinatário	MS – Ministério da Saúde
Data de Abertura	28/07/2021 11:23
Prazo de Atendimento	02/08/2021 23:59
Tipo de Recurso	Outros
Origem da Solicitação	Internet

#### *Justificativa*

Ministerio da saude brasileiro, se recusa a responder requisição, respondida por mais de 86 países, incluindo CDC, FDA e a propria Anvisa. Requisito, novamente, estudos e artigos, que mostrem o isolamento e purificacao do covid 19, seguindo o postulado universal cientifico do postulado de Kochs.

Solicito, purificacao e isolamento do virus, que nao tenha sido manipulado com nenhum outro elemento, e esse dado deve estar no resguardo no ministerio para que se efetuem vacinas e testes para a covid.

As resposras serao publicadas, internacionalmente, junto as respostas recebidas, sem transtornos, pelos 86 paisa ja mencionados.

Incluindo a resposra de que o ministerio da saude brasileiro, nao entendeu a pergunta.

Aguardo ainda a resposta da fiocruz.

### Resposta do recurso - Segunda Instância

Não há registro de resposta

### Denúncia de descumprimento

Não há registro de denúncias de descumprimento.

### Dados de Encaminhamento

Não há registros de encaminhamento.

### Dados de Prorrogação

# Plataforma Integrada de Ouvidoria e Acesso à Informação

## Detalhes da Manifestação

Não há registros de prorrogações.



Christine Massey <cmssyc@gmail.com>

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## FOI request to Durham Region Health Dept. re: "SARS-COV-2" purification

---

Christine Massey <cmssyc@gmail.com>  
To: foi@durham.ca

Fri, Aug 6, 2021 at 6:07 PM

**August 6, 2021**

To:  
The Regional Municipality of Durham  
Access and Privacy Office  
Legislative Services Division  
605 Rossland Road East, Level 1, P.O. Box 623  
Whitby, ON L1N 6A3

Dear Regional Clerk,

This is a formal request for access to general records, made under the *Municipal Freedom of Information and Protection of Privacy Act*.

**I have already submitted payment of the \$5 application fee via email transfer to [payments@durham.ca](mailto:payments@durham.ca).**

### Description of Requested Records:

All studies and/or reports in the possession, custody or control of the Region of Durham Public Health Department describing the **purification** (i.e. via filtration and ultra-centrifugation) of any "**COVID-19 virus**" (aka "SARS-COV-2", including any alleged "variants" i.e. "B.1.1.7", "B.1.351", "P.1") directly from a sample taken from a diseased human, where the patient sample was not first combined with any other source of **genetic** material (i.e. monkey kidney cells aka Vero cells; fetal bovine serum).

Please note that I am not requesting studies/reports where researchers failed to **purify** the suspected "virus" and instead:

- cultured an unpurified sample or other unpurified substance, and/or
- performed an amplification test (i.e. a PCR test) on the total RNA from a patient sample or from a cell culture, or on genetic material from any unpurified substance, and/or
- fabricated a genome based on PCR-detected sequences in the total RNA from a patient sample or from a cell culture or from any unpurified substance, and/or
- produced electron microscopy images of unpurified things in a cell culture.

### Clarification of Request

For further clarity, please note I am already aware that according to virus theory a "virus" requires host cells in order to replicate, and I am **not** requesting records describing the **replication** of a "virus" without host cells.

Further, I am **not** requesting private patient information, or records that describe a suspected "virus" floating in a vacuum; I am simply requesting records that describe its **purification (separation)** from everything else in the patient sample, as per standard laboratory practices for the purification of other very small things).

Please also note that my request is **not limited** to records that were authored by your institution or that pertain to work done at/by your institution. Rather, my request includes any record matching the above description, for example (but not limited to): any published peer-reviewed study authored by anyone, anywhere, ever that has been downloaded or printed by your institution.

If any records match the above description of requested records and are currently available to the public elsewhere, please provide enough information about each record so that I may identify and access each one with certainty (i.e. title, author(s), date, journal, where the public may access it). Please provide URLs where possible.

**Format:**

Electronic (i.e. pdf) documents sent to me via email; I do not wish for anything to be shipped to me.

**Name of applicant and address for correspondence**

Last name: Massey

First name: Christine

Address:

Phone:

Email: cmssyc@gmail.com

Thank you in advance and best wishes,

Christine Massey, M.Sc.

|



Christine Massey &lt;cmssyc@gmail.com&gt;

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**Decision (Our File: 2021-171)**

---

**FOI** <FOI@durham.ca>  
To: Christine Massey <cmssyc@gmail.com>

Thu, Aug 12, 2021 at 9:32 AM

Hi Christine,

Hope you're doing well. Please find enclosed the Region of Durham's response to your access request 2021-171. Our Health Department advised us that Public Health Ontario may have records you're seeking.

If you have any questions, please feel free to contact us.

Have a wonderful day,

**Robyn Bonneau** | Privacy AnalystAccess and Privacy Office  
The Regional Municipality of Durham

605 Rossland Rd E, Level 1, Whitby, ON L1N 6A3

robyn.bonneau@durham.ca | 905-668-7711 ext. 2741 | durham.ca



---

**From:** FOI  
**Sent:** August 9, 2021 2:47 PM  
**To:** 'Christine Massey' <cmssyc@gmail.com>  
**Subject:** Notice of Receipt (Our File: 2021-171)

Hi Christine,

This email is to acknowledge receipt of your access request submitted August 6, 2021, and your \$5 e-transfer payment. We have assigned your request as file number 2021-171.

The Access and Privacy Office will respond to your request according to the provisions of the

*Municipal Freedom of Information and Protection of Privacy Act.* If records are retrieved in response to your request, our office will deliver the records to you in an electronic format.

If you have any questions or would like to communicate with someone about your access request, please e-mail the Access and Privacy Office at [foi@durham.ca](mailto:foi@durham.ca) or by phone at (905) 668-7711, ext. 2741.

Have a great day,



**Robyn Bonneau** | Privacy Analyst

Access and Privacy Office  
The Regional Municipality of Durham

605 Rossland Rd E, Level 1, Whitby, ON L1N 6A3

[robyn.bonneau@durham.ca](mailto:robyn.bonneau@durham.ca) | 905-668-7711 ext. 2741 | [durham.ca](http://durham.ca)



THIS MESSAGE IS FOR THE USE OF THE INTENDED RECIPIENT(S) ONLY AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, PROPRIETARY, CONFIDENTIAL, AND/OR EXEMPT FROM DISCLOSURE UNDER ANY RELEVANT PRIVACY LEGISLATION. No rights to any privilege have been waived. If you are not the intended recipient, you are hereby notified that any review, re-transmission, dissemination, distribution, copying, conversion to hard copy, taking of action in reliance on or other use of this communication is strictly prohibited. If you are not the intended recipient and have received this message in error, please notify me by return e-mail and delete or destroy all copies of this message.

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#### 2 attachments



**image001.jpg**  
19K



**171Decision.pdf**  
227K



*Sent via Email*

August 10, 2021

Christine Massey  
[cmssyc@gmail.com](mailto:cmssyc@gmail.com)

Dear Ms. Massey:

**The Regional  
Municipality of  
Durham**

Corporate Services  
Department,  
Legislative Services

605 Rossland Rd. E.  
Level 1  
PO Box 623  
Whitby, ON L1N 6A3  
Canada

905-668-7711  
1-800-372-1102  
Fax: 905-668-9963

[durham.ca](http://durham.ca)

**Don Beaton,  
BCom, M.P.A.,  
Commissioner of  
Corporate Services**

**Access Request – Decision Letter**  
**Request Number: 2021-171**

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I am writing regarding your access request made under the *Municipal Freedom of Information and Protection of Privacy Act* (hereafter, 'the Act'), received in full by our office on August 9, 2021.

The Region of Durham undertook all reasonable searches in relation to the information you requested and found no records pertaining to your request.

I am the person responsible for the decision with respect to your request. You may request the Information and Privacy Commissioner (IPC) to review this decision within thirty days from the date of this letter. The IPC's address is Suite 1400, 2 Bloor Street East, Toronto, Ontario, M4W 1A8. The appeal fee is \$25.00 payable by cheque or money order to the Minister of Finance and must be included with your correspondence.

This completes our processing of your request. Should you have any questions, please contact the Access and Privacy Office at (905) 668-7711, ext. 2741 or at [foi@durham.ca](mailto:foi@durham.ca). We would appreciate you using the above listed access request number in any future correspondence.

Sincerely,

Cheryl  
Bandel for  Digitally signed by  
Cheryl Bandel for  
Date: 2021.08.11  
13:46:24 -04'00'

Ralph Walton  
Regional Clerk/Director of Legislative Services



Christine Massey <cmssyc@gmail.com>

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## Fwd: Access to Info Request to PHO: studies re isolation of SARS-COV-2

---

Christine Massey <cmssyc@gmail.com>

Thu, Jul 16, 2020 at 5:40 PM

To: [privacy@oahpp.ca](mailto:privacy@oahpp.ca)

Bcc: "<cetaboy@yahoo.com>" <cetaboy@yahoo.com>

July 16, 2020

Ontario Agency for Health Protection and Promotion aka Public Health Ontario (PHO)  
480 University Avenue  
Suite 300  
Toronto ON  
M5G 1V2  
[privacy@oahpp.ca](mailto:privacy@oahpp.ca)

Dear Freedom of Information and Privacy Coordinator,

This is a Freedom of Information Request for Access to General Records, made under *FIPPA*.

### Description of Requested Records:

All records in the possession, custody or control of the Ontario Agency for Health Protection and Promotion aka Public Health Ontario (PHO) describing the isolation of a SARS-COV-2 virus, directly from a sample taken from a diseased patient, where the patient sample was not first combined with any other source of genetic material (i.e. monkey kidney cells aka vero cells; lung cells from a lung cancer patient).

Please note that I am using "isolation" in the every-day sense of the word: *the act of separating a thing(s) from everything else*. I am not requesting records where "isolation of SARS-COV-2" refers instead to:

- the culturing of something, or
- the performance of an amplification test (i.e. a PCR test), or
- the sequencing of something.

Please also note that my request is not limited to records that were authored by PHO or that pertain to work done by PHO. My request includes any sort of record, for example (but not limited to) any published peer-reviewed study downloaded or printed by PHO.

If any records match the above description of requested records and are currently available to the public elsewhere, please provide enough information about each record so that I may identify and access each record with certainty (i.e. title, author(s), date, journal, where the public may access it).

### Format:

Pdf documents sent to me via email; I do not wish for anything to be shipped to me.

### Contact Information:

Last name: Massey

First name: Christine

Address: #221 - 93 George St. S., Brampton ON L6Y 1P4

Phone: 905-965-6254

Email: [cmssyc@gmail.com](mailto:cmssyc@gmail.com)

**Application Fee:**

I will submit a \$5 cheque by mail.

Thank you in advance and best wishes,  
Christine Massey, M.Sc.  
Brampton ON L6Y 1P4



Christine Massey <cmssyc@gmail.com>

---

**Fwd: Access to Info Request to PHO: studies re isolation of SARS-COV-2**

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**Christine Massey** <cmssyc@gmail.com>

Thu, Oct 1, 2020 at 12:29 PM

To: [privacy@oahpp.ca](mailto:privacy@oahpp.ca)

Dear FOI coordinator,

I am looking forward to PHO's response to my request submitted on July 16, and just wanted to update you with my new address for your records (although I prefer email communication and don't want anything shipped to me):

21 Keystone Avenue  
Toronto ON  
M4C 1G9

Cheers and thank you,  
Christine

[Quoted text hidden]



Christine Massey &lt;cmssyc@gmail.com&gt;

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**RE: Your Access Request No. 2020-08**

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**Ilone Harrison** <Ilone.Harrison@oahpp.ca>  
To: Christine Massey <cmssyc@gmail.com>

Thu, Jun 3, 2021 at 1:04 PM

Dear Ms. Massey,

Thank you for following up with Public Health Ontario (PHO) about your request for:

*All records in the possession, custody or control of the Ontario Agency for Health Protection and Promotion aka Public Health Ontario (PHO) describing the isolation of a SARS-COV-2 virus, directly from a sample taken from a diseased patient, where the patient sample was not first combined with any other source of genetic material (i.e. monkey kidney cells aka vero cells; lung cells from a lung cancer patient).*

*Please note that I am using "isolation" in the every-day sense of the word: the act of separating a thing(s) from everything else. I am not requesting records where "isolation of SARS-COV-2" refers instead to:*

- the culturing of something, or*
- the performance of an amplification test (i.e. a PCR test), or*
- the sequencing of something.*

*Please also note that my request is not limited to records that were authored by PHO or that pertain to work done by PHO. My request includes any sort of record, for example (but not limited to) any published peer-reviewed study downloaded or printed by PHO.*

*If any records match the above description of requested records and are currently available to the public elsewhere, please provide enough information about each record so that I may identify and access each record with certainty (i.e. title, author(s), date, journal, where the public may access it).*

Public Health Ontario recognizes that Freedom of Information (FOI) processes are an important service and a right for Ontarians, but in these extraordinary circumstances, public health and safety are of utmost importance. During the COVID-19 pandemic response, our ability to process FOI requests is directly impacted and we continue to experience delays related to:

- the conduct of full and comprehensive searches for records by program areas which may be prioritizing critical COVID-19 response activities in connection with the emergency;
- our ability to conduct reviews of those responsive records that have already been received from program

areas; and

- conducting necessary consultations with third parties or other institutions that may be prioritizing work related to COVID-19 or may be operating at a reduced capacity.

We will continue to make reasonable efforts to process incoming and existing requests. However, please be advised that your request may take longer than normal to process. We will try our best to keep you updated on the progress of your request.

Throughout the pandemic, PHO has published a wide range of resources related to COVID-19. In the interim, you may wish to review these resources. Please visit our [main COVID-19 webpage](#) to access them.

Please contact me if you have any questions.

Yours truly,

**Ilone M. Harrison** *FIP CIPM CIPP/C CIAPP-P*

**Privacy Officer**

Public Health Ontario | Santé publique Ontario

661 University Avenue, Suite 1701 | 661, Avenue Université, Bureau 1701

Toronto ON M5G 1M1

t: 647-260-7187

e: [ilone.harrison@oahpp.ca](mailto:ilone.harrison@oahpp.ca)

**From:** Christine Massey [mailto:[cmssyc@gmail.com](mailto:cmssyc@gmail.com)]

**Sent:** June 2, 2021 7:40 PM

**To:** Ilone Harrison <[Ilone.Harrison@oahpp.ca](mailto:Ilone.Harrison@oahpp.ca)>; Privacy <[Privacy@oahpp.ca](mailto:Privacy@oahpp.ca)>; Colleen Geiger <[Colleen.Geiger@oahpp.ca](mailto:Colleen.Geiger@oahpp.ca)>

**Subject:** Re: FIPPA request to OAHPP/PHO re "vaccine" consent, outcome tracking

Dear Ilone and Ms. Geiger,

Thank you, my \$5.00 application fee payable to Public Health Ontario is in the mail, addressed to [661 University Avenue](#).

Also, almost a year ago, on **July 16, 2020**, I emailed another request to PHO, asking for records describing the purification of "SARS-COV-2" from any patient sample in the world. I mailed in a \$5 cheque the following day. A screenshot of the request has been posted on my website for many months:

<https://www.fluoridefreepeel.ca/wp-content/uploads/2020/07/FOI-to-PHO-isolation-July-16-2020-2.jpg>

On October 1, 2020 I advised PHO via email of my address change, for your records, and indicated that I still preferred email communication and still didn't want anything shipped to me, as had been stated in my request. A screenshot of that email is attached.

According to my bank, PHO cashed the cheque for that request on **October 30, 2020**. A screenshot of the cheque and the date of transaction, from my online banking, is attached.

I've still never received any response whatsoever to this request.

I have moved again since, but still prefer email communication and do not want anything shipped to me. Is PHO ever going to provide their response to that request?

Thank you, best wishes,

Christine



Christine Massey &lt;cmssyc@gmail.com&gt;

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**Your Access Request No. 2020-08**

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**Ilone Harrison** <Ilone.Harrison@oahpp.ca>  
To: Christine Massey <cmssyc@gmail.com>

Wed, Aug 4, 2021 at 10:47 AM

Dear Ms. Massey,

I am writing to you in connection with your request for access to information, specifically for:

*All records in the possession, custody or control of the Ontario Agency for Health Protection and Promotion aka Public Health Ontario (PHO) describing the isolation of a SARS-COV-2 virus, directly from a sample taken from a diseased patient, where the patient sample was not first combined with any other source of genetic material (i.e. monkey kidney cells aka vero cells; lung cells from a lung cancer patient).*

*Please note that I am using "isolation" in the every-day sense of the word: the act of separating a thing(s) from everything else. I am not requesting records where "isolation of SARS-COV-2" refers instead to:*

- the culturing of something, or*
- the performance of an amplification test (i.e. a PCR test), or*
- the sequencing of something.*

*Please also note that my request is not limited to records that were authored by PHO or that pertain to work done by PHO. My request includes any sort of record, for example (but not limited to) any published peer-reviewed study downloaded or printed by PHO.*

*If any records match the above description of requested records and are currently available to the public elsewhere, please provide enough information about each record so that I may identify and access each record with certainty (i.e. title, author(s), date, journal, where the public may access it).*

The type of work described in your request is not done by Public Health Ontario (PHO) and there are no records at PHO that are responsive to your request.

PHO performs testing for SARS-CoV-2 virus, the virus that causes COVID-19, but the work that PHO does has been excluded from your request as per paragraph 2. Information about PHO's COVID-19 testing is available on our website:

- [Coronavirus Disease 2019 \(COVID-19\) – PCR](#)
- [Coronavirus Disease 2019 \(COVID-19\) – Serology](#)
- [COVID-19 Virus Variant of Concern \(VoC\) Surveillance — see SARS-CoV-2 \(COVID-19 Virus\) Variant of Concern \(VoC\) Surveillance](#)

FIPPA section 50(1) allows you to appeal this decision, within 30 days, to the Information and Privacy Commissioner of Ontario (IPC). The IPC's contact information is:

2 Bloor Street East

[Suite 1400](#)

Toronto, Ontario

[M4W 1A8](#)

Telephone: (416) 326-3333 (Toll Free: 1-800-387-0073)

If you decide to appeal, you should provide a copy of your original request and this decision letter. You will also need to send the IPC an appeal fee of \$25.00, by cheque or money order payable to the Minister of Finance.

Please do not hesitate to contact me for clarification or to discuss any aspect of your request or this decision.

Yours truly,

**Ilone M. Harrison *FIP CIPM CIPP/C CIAPP-P***

**Privacy Officer**

Public Health Ontario | Santé publique Ontario

[661 University Avenue, Suite 1701](#) | 661, Avenue Université, Bureau 1701

Toronto ON M5G 1M1

t: 647-260-7187

e: [ilone.harrison@oahpp.ca](mailto:ilone.harrison@oahpp.ca)



Christine Massey <cmssyc@gmail.com>

---

## FOI request to Hastings Prince Edward Public Health re: "SARS-COV-2" purification

---

Christine Massey <cmssyc@gmail.com>  
To: poglaza@hpeph.ca, info@hpeph.ca

Wed, Apr 21, 2021 at 10:38 AM

April 21, 2021

To:  
Information Officer  
Hastings Prince Edward Public Health  
179 North Park Street  
Belleville, Ontario  
K8P 4P1  
613-966-5500 or 1-800-267-2803

Submitted via email to: [info@hpeph.ca](mailto:info@hpeph.ca), [poglaza@hpeph.ca](mailto:poglaza@hpeph.ca)

Dear Dr. Piotr Oglaza,

This is a formal request for access to general records, made under the *Municipal Freedom of Information and Protection of Privacy Act*.

**I did not find information on your website re how to submit the \$5 application fee during the "pandemic". Please advise ASAP, otherwise I will mail a cheque payable to Hastings Prince Edward Public Health, to the address listed above.**

### Description of Requested Records:

All studies and/or reports in the possession, custody or control of yourself or Hastings Prince Edward Public Health describing the **purification** of any **"SARS-COV-2"** aka "COVID-19 virus" (including any "variants") (via maceration, filtration and use of an ultracentrifuge; also referred to at times by some people as "isolation"), directly from a sample taken from a diseased human, where the patient sample was not first combined with any other source of **genetic** material (i.e. monkey kidney cells aka Vero cells; fetal bovine serum).

Please note that I am not requesting studies/reports where researchers failed to **purify** the suspected "virus" and instead:

- cultured an unpurified sample or other unpurified substance, and/or
- performed an amplification test (i.e. a PCR test) on all the RNA from a patient sample or from a cell culture, or on genetic material from any unpurified substance, and/or
- sequenced the total RNA from a patient sample or from a cell culture or from any unpurified substance, and/or
- produced electron microscopy images of unpurified things.

### Clarifications re my request

For further clarity, please note I am already aware that according to virus theory a "virus" requires host cells in order to replicate, and I am **not** requesting records describing the **replication** of a "virus" without host cells.

Further, I am **not** requesting records that describe a suspected "virus" floating in a vacuum; I am simply requesting records that describe its **purification (separation)** from everything else in the patient sample, as per standard laboratory practices for the purification of other small things).

Please also note that my request is **not for private patient information and not limited** to records that were authored by yourself or Hastings Prince Edward Public Health or that pertain to work done at/by Hastings Prince Edward Public Health. Rather, my request includes any record **matching the above description**, for example (but not limited to) any published peer-reviewed study authored by anyone, anywhere that has been downloaded or printed by yourself and relied on as evidence of a disease-causing "virus".

If any records match the above description of requested records and are currently available to the public elsewhere, please provide enough information about each record so that I may identify and access each one with certainty (i.e. title, author(s), date, journal, where the public may access it). Please provide URLs where possible.

**Format:**

Pdf documents sent to me via email; I do not wish for anything to be shipped to me.

**Contact Information:**

Last name: Massey

First name: Christine

Address:

Phone:

Email: [cmssyo@gmail.com](mailto:cmssyo@gmail.com)

Thank you in advance and best wishes,  
Christine Massey, M.Sc.



Christine Massey &lt;cmssyc@gmail.com&gt;

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**FOI Request**

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**Dr. Piotr Oglaza** <POglaza@hpeph.ca>

Fri, Jul 9, 2021 at 4:41 PM

To: cmssyc@gmail.com

Cc: Nancy McGeachy &lt;NMcGeachy@hpeph.ca&gt;

Ms. Massey,

Please find attached a letter regarding your FOI request received in April, 2021.

As you will see in the letter, we do not have the information you are looking for so we will shred the cheque you sent in the amount of \$5.00. The cheque will not be cashed.

Apologies for the lateness of this response.

Thank you  
Piotr

---

**Piotr Oglaza MD, CPHI(C), MPH, CCFP, FRCPC**  
Medical Officer of Health and CEO

Hastings Prince Edward Public Health

[179 North Park Street, BELLEVILLE, ON K8P 4P1](#)

Ph: 613-966-5500 Ext 200, Fax: 613-966-4290

Email: [poglaza@hpeph.ca](mailto:poglaza@hpeph.ca)Website: [hpePublicHealth.ca](http://hpePublicHealth.ca)

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Please note our offices are now open for clinical services by appointment only. Check out our website for the latest information.

Sent from HPEPH Mail Services

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Disclaimer: This is intended for the addressee indicated above. It may contain information that is privileged, confidential, or otherwise protected from disclosure under The Municipal Freedom of Information and Privacy Protection Act. Any review, dissemination, or use of its contents by persons other than the addressee is strictly prohibited. If you have received this in error, please notify us immediately.

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 **CM-FOI-Request-Response-Letter-July9-2021.pdf**

105K



**Main Office - Belleville**

179 North Park Street, Belleville, ON K8P 4P1  
T: 613-966-5500 | 1-800-267-2803 | F: 613-966-9418  
TTY: 711 or 1-800-267-6511  
[hpePublicHealth.ca](http://hpePublicHealth.ca)

July 09, 2021

Ms. Christine Massey

Via email: [cmssyc@gmail.com](mailto:cmssyc@gmail.com)

Dear Ms. Massey:

**Re: Information Inquiry Submitted on April 29, 2021**

I am unable to provide a response to your inquiry as we are not in possession of the information you have requested. You may wish to contact the Public Health Lab of Ontario to inquire whether they can provide you with the information you are seeking.

I apologize for the significant delay in responding to this request. As you can imagine, there are significant competing pressures on staff time as we work to respond to numerous inquiries from the public, deliver vaccine clinics throughout the community, continue to manage cases and contacts, and deliver regular public health programs. Your patience is appreciated.

Sincerely,

Piotr Oglaza, MD, CPHI(C), CCFP, MPH, FRCPC  
Medical Officer of Health and CEO  
Hastings Prince Edward Public Health

PO/NM/cal

---

**North Hastings**  
1P Manor Ln., L1-024, PO Box 99, Bancroft, ON K0L 1C0  
T: 613-332-4555 | F: 613-332-5418

**Prince Edward County**  
Suite 1, 35 Bridge St., Picton, ON K0K 2T0  
T: 613-476-7471 | F: 613-476-2919

**Quinte West**  
499 Dundas St. W., Trenton, ON K8V 6C4  
T: 613-394-4831 | F: 613-965-6535

---

**Fwd: Freedom of information - TL1S - FOI 11035 - Final response**

---

To: christinem@fluoridefreepeel.ca

Tue, Jul 27, 2021 at 3:49 AM

- TL1S - FOI 11035 - Final response

Good morning,

The Trust has now completed collation of data to support a response to your recent Freedom of Information requests for Pennine Acute NHS Trust and Salford Royal NHS Foundation Trust.

Details requested have been attached to this email.

As part of the disclosure log, all responses to Freedom of Information requests are posted on the Trust's website. Please click on the link below to view the response to your request.

<https://www.srft.nhs.uk/about-us/freedom-of-information/randr/?entryid34=218053&q=0%7e11135%7e>

Please click on the corresponding Trusts tab to view the information.

We trust these details will assist with your enquiries. If we can be of any further assistance in the future please do not hesitate to contact us again.

Questionnaire

As a Trust we are keen to monitor and improve the services we offer. We'd be grateful if you could take the time to answer the following questions and provide us with any other feedback that may assist us with this process:

Were you satisfied with the handling of your request?	YES/NO
---	--------

Was your request handled in a timely manner?	YES/NO
Were you provided with sufficient information to assist you with your request?	YES/NO

Yours Sincerely

Freedom of Information Office

Digital

Northern Care Alliance

Salford/North Manchester/Oldham/Rochdale/Fairfield

Team Tel: **Please note our offices are closed for the foreseeable future. The best way to contact the team is via email or Microsoft teams**

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

From: PennineFOI atSalford

Sent: 11 June 2021 07:54

Subject: RE: Freedom of information - TL1S - FOI 11035 - ack

Good morning,

With reference to your request made under the Freedom of Information Act, Salford Royal NHS Foundation Trust acknowledges receipt of your request for information and informs you that the process has been instigated. Our Reference number should be used in all future correspondence.

In accordance with Trust policy and the requirements of the Freedom of Information Act 2000, a period of 20 working days is assigned for processing your request. [Working days within the NHS refers to Mon-Fri.] We will provide you with an explanation if we find that there is any reason why this period may extend beyond the period prescribed by the Act.

Please contact us if you have any queries regarding the procedure.

Kind regards,

Freedom of Information Office

Digital

Northern Care Alliance

Salford/North Manchester/Oldham/Rochdale/Fairfield

Team Tel: Please note our offices are closed for the foreseeable future. The best way to contact the team is via email or Microsoft teams

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

From: Ryan Kate (Microbiology) <kate.ryan@srft.nhs.uk>

Sent: 10 June 2021 10:31

Cc: Freedom of information request <FreedomOf.InformationRequest@srft.nhs.uk>

Subject: RE: Freedom of information - TL1S - FOI 11035

I have referred your request to the Freedom of Information department.

Kind Regards,

Kate Ryan

Microbiology Service Manager

Pathology at Wigan and Salford (PAWS)

Salford Royal NHS Foundation Trust

Salford Care Organisation

Part of the Northern Care Alliance NHS Group

tel: 0161 206 5025 (Internal extension: 65025)

mobile: 07970268833

Trust email: kate.ryan@srft.nhs.uk

NHS email: paws.microbiology@nhs.net

PA for Microbiology – Diane Lancaster ( 0161 206 5030 diane.lancaster@srft.nhs.uk)

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

Sent: 09 June 2021 21:02

To: Ryan Kate (Microbiology) <kate.ryan@srft.nhs.uk>

Subject: Freedom of information

Hi Kate,

Under the freedom of information Act I would like to know the number of cycles you have been using on the PCR test (Polymerase Chain Reaction) test as standard, and if that number has been changed at any time for whatever reason.

I would also like to know how many children under the age of 16 have been logged as a death from SARSCoV2, without any underlying health issues.

And can you tell me if you have any records of SARSCoV2 going through Koch's postulates?

Kind regards

The UK

Sent from my iPhone

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**3 attachments**



**PCR Testing - 09 07 2021.pdf**

194K



**NCA FOI COVID 19 responses 080721.pdf**

258K



**NCA FOI Response Report - FOI 11135 - Final.pdf**

154K

Freedom of Information Report **FOI / 11135**

**Question (dated:09/06/2021)**  
**Requestor Category: Individual**

I would like to know the number of cycles you have been using on the PCR (polymerase chain reaction) test as standard and if that number has ever been changed at any time for whatever reason.

I would also like to know how many children with under the age of 16 have been logged as a death from SARSCoV2 without any underlying health issues.

Can you also tell me if you have any records of SARSCoV2 going through Koch's Postulates.

**Response – Salford Royal NHS Foundation Trust**

**All COVID-19 related information for the Trust is published online (including PCR testing). In line with section 21 of the Freedom of Information Act, please visit the link below to access the information requested**

<https://www.srft.nhs.uk/about-us/freedom-of-information/randr/?entryid34=217656&q=0%7epcr%7e>

[https://www.srft.nhs.uk/about-us/freedom-of-information/randr/?esctl2071478directoryviewpager\\_p=1&entryid34=205243&q=0%7efoi+covid%7e](https://www.srft.nhs.uk/about-us/freedom-of-information/randr/?esctl2071478directoryviewpager_p=1&entryid34=205243&q=0%7efoi+covid%7e)

## Freedom of Information Report COVID-19 RELATED FIGURES

COVID- 19 death figures are reported daily on the NHS England website. In line with section 21 of the Freedom of Information Act, please visit the link below to access the information requested

<https://www.england.nhs.uk/statistics/statistical-work-areas/covid-19-daily-deaths/>

- the number of patients in hospital with COVID including those in mechanical ventilation
- the number of patients admitted to hospital with COVID
- the number of patients diagnosed in hospital with COVID
- the number of patients discharged from hospital and
- staffing absences
- hospital admissions,
- number of Adult G&A beds; occupied by COVID patients; occupied by non-COVID patients, unoccupied
- number of all beds occupied by COVID patients
- number of MV beds occupied by COVID patients

are also reported via the link below

<https://www.england.nhs.uk/statistics/statistical-work-areas/covid-19-hospital-activity/>

Cause of death is not recorded on our clinical systems and would be recorded on an individual's death certificate. To review all death certificates issued over this time period to establish the primary cause of death is estimated will take in excess of time expectations of the Freedom of Information Act. The Trust therefore sites section 12(1) and is unable to provide a response to this request.

### Break down per Care Organisation and Hospital

	Patients (March 2020 – December 2020)	Patients (Jan 2021 – March 2021)
<b>Bury and Rochdale Care Organisation (Fairfield General Hospital and Rochdale Infirmary)</b>	12	12
<b>Oldham Care Organisation (The Royal Oldham Hospital)</b>	16	35
<b>North Manchester Care Organisation (North Manchester General Hospital)</b>	88	<10

The total number of patients who have died with a positive COVID-19 test within 28 days of their death with no previous existing health conditions between March 2020 and 8<sup>th</sup> December 2020 at **Salford Royal NHS Foundation Trust** is **<10**

The total number of patients who have died with a positive COVID-19 test within 28 days of their death with no previous existing health conditions between January 2021 and March 2021 at **Salford Royal NHS Foundation Trust** is **<10**

The Trust applies an exemption under section 41 (1) of the Freedom of Information Act (Information provided in confidence in relation to patients that are deceased and are not afforded rights under the GDPR) and has not provided any figures less than 10.

The Trust is unable to differentiate between those who died with or from COVID-19. However, in the spirit of the FOI Act, the Trust is able to provide the following information of the total number of patients who have died with a positive COVID-19 test within 28 days of their death:

**432** patient's deaths have been submitted into the Covid-19 Patient Notification System (CPNS) via NHS England within the time frame of March 2020 to the 16<sup>th</sup> of December 2020 at **Fairfield General Hospital**

**155** patient's deaths have been submitted into the Covid-19 Patient Notification System (CPNS) via NHS England within the time frame of March 2020 to the 22<sup>nd</sup> of January 2021 at the **Royal Oldham Hospital**

*\*\*Figures for April to July 2021 will be published by the end of September 2021 (exempt under section 22 of the FOI Act – intended for future publication)*

Freedom of Information Report **FOI / 11128**

**Question (dated:09/06/2021)**  
**Requestor Category: Individual**

1. I would like to know the number of cycles you have been using on PCR (Polymerase Chain Reaction) test as standard and if that number has ever been changed at anytime for whatever reason.
2. I would also like to know how many children under the age of 16 have been logged as a death from SARSCov2 without any underlying health issues.
3. And can you tell me if you have any records of SARSCov2 going through Koch's Postulates.

**Response – Salford Royal Foundation Trust**

1. I would like to know the number of cycles you have been using on PCR (Polymerase Chain Reaction) test as standard and if that number has ever been changed at anytime for whatever reason.

**The Trust uses the following Commercial CE IVD assays - Hologic Panther, Cepheid, BD Max, Abbott Alinity, Abbott M2000 and AusDiagnostics Hi-Plex. The number of thermal cycles across all the platforms in use varies slightly and the maximum is 42; the parameters for all these assays are available from the commercial suppliers. The Trust does not alter them for any reason.**

2. I would also like to know how many children under the age of 16 have been logged as a death from SARSCov2 without any underlying health issues.

**There were no children under the age of 16 who died within 28 days of a positive COVID-19 test result.**

3. And can you tell me if you have any records of SARSCov2 going through Koch's Postulates.

**The Trust has not recorded any cases going through Koch's Postulates.**

## Response – Pennine Acute Hospitals NHS Trust

1. I would like to know the number of cycles you have been using on PCR (Polymerase Chain Reaction) test as standard and if that number has ever been changed at anytime for whatever reason.

**The Trust uses the following Commercial CE IVD assays - Hologic Panther, Cepheid, BD Max, Abbott Alinity, Abbott M2000 and AusDiagnostics Hi-Plex. The number of thermal cycles across all the platforms in use varies slightly and the maximum is 42; the parameters for all these assays are available from the commercial suppliers. The Trust does not alter them for any reason.**

2. I would also like to know how many children under the age of 16 have been logged as a death from SARSCov2 without any underlying health issues.

**The Trust is unable to provide figures of those who have died from COVID-19. In the spirit of the FOI Act, the Trust can provide information on those with a positive COVID 19 test within 28 days of death.**

**There were less than 10 children who died within 28 days of a positive COVID-19 test result.**

**The Trust applies an exemption under section 41 (1) of the Freedom of Information Act (Information provided in confidence in relation to patients that are deceased and are not afforded rights under the GDPR) and has not provided any figures less than 10.**

3. And can you tell me if you have any records of SARSCov2 going through Koch's Postulates.

**The Trust has not recorded any cases going through Koch's Postulates.**

On Wednesday, February 24th, 2021 at 10:15 PM, [REDACTED] <[REDACTED]> wrote:

Dear Health Ministers,

I am writing to you on advice from the Australian Department of Health (the Department) to seek clarification on information requested in a Freedom of Information (FOI) request that was sent to the Department.

The Department's initial response on 24th August 2020 (attached: "Initial FOI 1937 Response"), stated: "To obtain the information you are seeking please direct your request to the various State and territory Departments of Health".

After further correspondence between the FOI author and the Department, a more formal response was given (attached: "FOI 1937"), yet the outcome remained the same.

I am therefore writing to you to on initial advice by the Department of Health to confirm whether you do hold the information requested in the original request to the Department, as shown in attachment "FOI 1937" and pasted again below:

*"All records in the possession, custody or control of The Department of Health describing the isolation of a SARS-COV-2 virus, directly from a sample taken from a diseased patient, where the patient sample was not first combined with any other source of genetic material (i.e. monkey kidney cells aka vero cells; lung cells from a lung cancer patient). Please note that I am using "isolation" in the every-day sense of the word: the act of separating a thing(s) from everything else. I am not requesting records where "isolation of SARS-COV-2" refers instead to:*

- the culturing of something,*
- or the performance of an amplification test (i.e. a PCR test),*
- or the sequencing of something.*

*Please also note that my request is not limited to records that were authored by The Department of Health or that pertain to work done by The Department of Health. My request includes any sort of record, for example (but not limited to) any published peer reviewed study that The Department of Health has downloaded or printed."*

I look forward to your response.

[REDACTED]

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

On Wednesday, May 26th, 2021 at 12:56 PM, MOH-GIPA <MOH-GIPA@health.nsw.gov.au> wrote:

Dear [REDACTED]

Please find attached correspondence with regard to your recent inquiry.

Kind regards

**Lisa Yozghatlian**

GIPA Officer | Corporate Governance and Risk Management, **Legal and Regulatory Services**

NSW Ministry of Health | 1 Reserve Road, St Leonards, New South Wales 2065

[www.health.nsw.gov.au](http://www.health.nsw.gov.au)



Health

This message is intended for the addressee named and may contain confidential information. If you are not the intended recipient, please delete it and notify the sender.

Views expressed in this message are those of the individual sender, and are not necessarily the views of NSW Health or any of its entities.



GIPA21-60 [REDACTED] Do not hold - information publicly available - 25 May 2021.pdf  
157K

[REDACTED]  
Dear [REDACTED]

#### Informal request for information

I refer to your informal request for information held by the NSW Ministry of Health for the following information:

*"All records in the possession, custody or control of The Department of Health describing the isolation of a SARS-COV-2 virus, directly from a sample taken from a diseased patient, where the patient sample was not first combined with any other source of genetic material (i.e. monkey kidney cells aka vero cells; lung cells from a lung cancer patient). Please note that I am using "isolation" in the every-day sense of the word: the act of separating a thing(s) from everything else. I am not requesting records where "isolation of SARS-COV-2" refers instead to:*

- the culturing of something,*
- Or the performance of an amplification test (i.e. a PCR test),*
- Or the sequencing of something.*

*Please also note that my request is not limited to records that were authored by The Department of Health or that pertain to work done by The Department of Health. My request includes any sort of record, for example (but not limited to) any published peer reviewed study that The Department of Health has downloaded or printed."*

Preliminary searches for information were undertaken by the relevant areas within the Ministry of Health, and it was confirmed, that from our understanding of the scope of your application, we do not hold the information requested.

It has been suggested internally that you contact NSW Health Pathology to discuss your request further to determine whether they may or may not hold any relevant information.

However, information has been identified that may assist with your inquiry this information is publicly available.

#### Information publicly available

The following information is publicly available. Please find below resources that may be of use to answer queries the Ministry has received in regards to SARS-COV-2 testing. They are:

- <https://www.pathology.health.nsw.gov.au/covid-19-info/covid-19-testing-information>
- <https://www.health.nsw.gov.au/Infectious/covid-19/communities-of-practice/Pages/clinical-guidance-and-resources.aspx>

If you have any questions regarding this matter, please contact the Ministry's GIPA office via email to MOH-GIPA@health.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink that reads "S. Makira". The signature is written in a cursive, flowing style.

Sonia Makira  
**GIPA Specialist, Corporate Governance & Risk Management**

Date: 25 May 2021



**NACIONALNI LABORATORIJ ZA  
ZDRAVJE, OKOLJE IN HRANO**

SKUPNE STROKOVNE SLUŽBE

Datum: 15.3.2021

Številka: 161-0-7-IJZ-3/2021

Nacionalni laboratorij za zdravje, okolje in hrano, Prvomajska ulica 1, Maribor, ki ga zastopa direktorica mag. Tjaša Žohar Čretnik, dr. med., spec., izdaja na podlagi prvega odstavka 21. člena ter drugega odstavka 22. člena Zakona o dostopu do informacij javnega značaja (Ur. l., št. RS, 51/06 - UPB-2 in 117/06 - ZdavP-2, 23/2014, 50/2014) in na podlagi četrtega odstavka 26. člena Sklepa o ustanovitvi Nacionalnega laboratorija za zdravje, okolje in hrano (štev. 01403-26/2013/4 z dne 25. 7. 2013), v upravni zadevi dostopa do informacij javnega značaja po vloženi zahtevi prosilca [REDACTED].

**ODLOČBO**

**o delni zavrnitvi zahteve za dostop do informacije javnega značaja**

1. Zahtevi za dostop do informacij javnega značaja prosilca [REDACTED] vloženi dne 9.2.2021, se delno ugodijo v delu, ki se nanaša na cepivo proti bolezni Covid-19
2. V ostalem se zahtevo prosilca zavrne.
3. Nacionalni laboratorij za zdravje, okolje in hrano in prosilec krijeta vsak svoje stroške postopka.

**Obrazložitev:**

Prosilec je dne 9.2.2021 na Nacionalni laboratorij za zdravje, okolje in hrano (v nadaljevanju: NLZOH) v elektronski pošti naslovil Zahtevo za dostop do informacij javnega značaja. Zaradi molka NLZOH se je prosilec pritožil, zato je Informacijski pooblaščenec NLZOH pozval k odločitvi v skladu z ZDIJZ oz. sporočilo, zakaj odločba ni bila izdana pravočasno, če za to obstajajo opravičeni razlogi.

Vlagatelj je na NLZOH naslovil zahtevo s sledečo vsebino:

A. Virus SARS-CoV-2 (v nadaljevanju: Virus) in bolezen Covid-19 (v nadaljevanju: C19)

10. Glede na z državnimi predpisi določenimi vlogo in namenom ter pomenom NLZOH na področju javnega zdravja, Vlagatelj domneva, da je NLZOH v lastnem laboratoriju dokazal fizični obstoj Virusov iz vzorcev okuženih oseb ob upoštevanju Kochovih in/ali Riverjevih postulatov, zato Vlagatelj od NLZOH Vlagatelj pričakuje listinsko informacijo, v kateri NLZOH to izkazuje.

11. Če NLZOH fizični obstoj Virusov ni dokazal, Vlagatelj pričakuje, da mu NLZOH predloži listinsko informacijo laboratorija, ki je dokazal fizični obstoj Virusov.

12. Če fizični obstoj Virusov (sploh) ni laboratorijsko dokazan po Kochovih in/ali Riverjevih postulatih, Vlagatelj od NLZOH pričakuje listinsko informacijo, ki (kakorkoli) dokazuje obstoj Virusov.

13. Ali se je celotna (izolirana) DNA sekvenca Virusov pridobila iz okuženih pacientov ali računalniško z algoritmi iz vzorcev vzeti iz genske banke? Vlagatelj pričakuje, da mu



NLZOH predloži listinsko informacijo kdo je prvi izvedel celotno (biokemično karakterizacijo) DNA sekvenco virusa?

14. Ali so bili opravljeni vsi potrebni kontrolni eksperimenti, da se izloči možnost, da ta sekvenčna struktura, i.e. genetski sev, ki je pripisan temu virusu, ne izvira iz drugega vira in da je neškodljiv?

15. Ali so bili opravljene vse potrebne kontrole, da se izloči, da eksperimentalna priprava, i.e. okužba celične kulture (e.g. VeroE6 celice/celice iz jeter opic), s katero se je obdelala celična kultura, ni posledica afekta, ki bi se tako pomotoma pripisal zaznavanju virusa?

16. Glede na (uradno) informacijo, da Virus povzroča C19, Vlagatelj od NLZOH pričakuje listinsko informacijo, ki pri ljudeh to vzročnost Virus in C19 dokazuje.

17. Ali NLZOH pri odkrivanju Virus s PCR testom uporablja Corman-Drostenov protokol ali kateri drug protokol? Vlagatelj od NLZOH pričakuje ali pritrditev ali listinsko informacijo o protokolu, ki ga pri svojem delu upošteva NLZOH.

18. Glede na zapis v javno dostopni informaciji "PCR testi so zanesljivi." avtorjev Petra Vovko, mikrobiologinja v sodelovanju z Majo Bombek Ihan ter Matjažem Reteljem, da gre za osebna/strokovna mnenja in ne nujno mnenja delodajalca (NLZOH), in v kateri je navedeno, da se za detekcijo Virus s PCR testom opravi 40 ciklov (pomnoževanj) kratkih zaporedij DNA, medtem ko Corman-Drostenov protokol navaja 45 ciklov.

18.1. NLZOH naj Vlagatelju pojasni, zakaj ta razlika, ali je znanstveno/strokovno ali drugače utemeljena, ter Vlagatelju predloži listinsko informacijo utemeljitve odstopanja.

18.2. NLZOH naj Vlagatelju pojasni, ali dosledno in ves čas od marca 2020 pri detekciji Virus s PCR testom upošteva navodila proizvajalcev glede števila.

18.3. NLZOH naj Vlagatelju pojasni, ali dosledno in ves čas od marca 2020 uporablja na isti/enaki napravi isto število ciklov za detekcijo Virus.

18.4. Če je NLZOH spreminjal število ciklov, naj Vlagatelju predloži listinsko informacijo o razlogih in ciljih spreminjanja števila ciklov ter o rezultatih odkrivanja in potrjevanja Virus s različnim številom pomnoževanj kratkih zaporedij DNA.

19. V javno dostopni informaciji "PCR testi so zanesljivi." je navedeno: "Vrednost Ct je zaporedna številka cikla, pri katerem signal vzorca doseže prag, ki je potreben za pozitiven rezultat. Če je Ct nizek, je bilo v vzorcu veliko virusnih genov. Če je Ct visok, je bilo v vzorcu malo virusnih genov."

19.1. Ker Vlagatelju ni jasno, v kakšni povezavi so navedbe v javno dostopni informaciji "PCR testi so zanesljivi." s "standardnimi" 40 Ct, od NLZOH pričakuje pojasnilo, ali kljub vsemu obstaja minimum pomnoževanj, ki dokazuje prisotnost Virus in s tem pozitivnost testirane osebe, ter maksimum pomnoževanj, ki dokazuje odsotnost Virus in s tem negativnost testirane osebe, kot npr. Ct 35 za pozitivnost in Ct 40 za negativnost?

19.2. Ali PCR odkrije celotno sekvenco domnevnega virusa?

19.3. Ali je "količina" Virus merljiva in če, kako?

19.4. Ali že vsaka dokazana "količina" Virus dokazuje okuženost z Virusom?

19.5. Ali lahko PCR časovno določi, kdaj je človek pridobil virus?

19.6. Ali lahko PCR najde virusne delce iz preteklih okužb?

19.7. Ali lahko PCR zazna druge sorodne koronavirus?



19.8. Ali že vsaka s PCR testom ugotovljena prisotnost Virusa pri neki osebi, ne glede na "količino" Virusa, de facto že pomeni obolelost te osebe s C19?

19.9. Če vzorec preverimo s PCR testom pri 30 Ct in isti vzorec testiramo pri 40 Ct, bo vrednost enaka ali bo vplivalo na rezultat, ter bi želel reference do teh podatkov?

20. Vlagatelj prilaga kopijo (anonimiziranega) izvida o prisotnosti oz. detekciji Virusa pri osebi, ki ga je opravil Inštitut za mikrobiologijo in imunologijo iz Ljubljane (IMI).

20.1. Vlagatelj, izhajajoč iz predloženega izvida testiranja in ker iz javno dostopnih virov in informacij ni mogel razbrati in z gotovostjo ugotoviti, od NLZOH pričakuje, da mu predloži listinsko informacijo, ki vsebuje navedbo državnega predpisa, na podlagi katerega je IMI, tako kot NLZOH po 23.c členu ZNB, javno pooblaščen za izvajanje mikrobioloških preizkušanj na področju medicinske mikrobiologije za potrebe izvajalcev zdravstvene dejavnosti, ter od ECDC priznan nacionalni referenčni laboratorij.

20.2. Vlagatelj, ki mu v izvidu, po laičnem prepričanju, manjka vsaj podatek o številu opravljenih pomnoževanj, od NLZOH pričakuje, da mu predloži listinsko informacijo - predpis oz. akt, ki določa vsebino izvida testiranja oz. izvida neposrednega dokazovanja Virusa, ter predloži tudi en primerek lastnega (anonimiziranega) izvida dejansko opravljenega dokazovanja Virusa.

20.3. Vlagatelj od NLZOH pričakuje, da mu navede dejansko skupno število (vseh) opravljenih PCR testiranj ter skupno število (vseh) testiranih oseb (i) v letu 2020 in (ii) v januarju 2021.

#### B. Cepivo proti C19 (v nadaljevanju: Cepivo)

21. Je NZLOH kakorkoli sodeloval z EMA pri izbiri ter kontroli in potrjevanju Cepiva, in če, kako? Vlagatelj od NZLOH pričakuje ali pisno zanikanje sodelovanja ali predložitev listinskih informacij, ki izkazujejo sodelovanje NZLOH z EMA.

22. Je NLZOH, pred dejanskim potrjevanjem Cepiva vsakega proizvajalca v promet oz. uporabo na področju RS, samostojno in neodvisno ali po nalogu JAZMP analizo preskusil Cepivo, bodisi kot redno bodisi kot izredno kontrolo kakovosti Cepiva?

22.1. Če DA, Vlagatelj od NLZOH pričakuje listinsko informacijo o opravljeni kontroli kakovosti Cepiva vseh proizvajalcev.

22.2. Če NE, Vlagatelj od NLZOH pričakuje listinsko informacijo o opravljeni kontroli kakovosti Cepiva vseh proizvajalcev od (evropskega) uradnega kontrolnega laboratorija, ki je opravil kontrolo kakovosti.

23. Ali je NZLOH pri določanju redne in izredne kontrole kakovosti, ter nerutinskih ali posebnih preskusov samostojna in suverena institucija, ali je podrejena nekemu drugemu in kateremu organu oz. entiteti, ter, ali lahko predlaga nerutinske ali posebne preskuse civilna družba in pod kakšnimi pogoji?

Vlagatelj pričakuje od NLZOH, javnega zavoda z izjemno pomembnimi pooblastili in nalogami na področju javnega zdravja in tudi v vlogi nacionalnega referenčnega laboratorija, da bo

- Vlagatelju odgovoril na v tej zahtevi postavljena vprašanja,

- Vlagatelju predložil zahtevane listinske informacije, bodisi v obliki elektronskih zapisov (word, PDF) ali prepisov (kopija/scan) listin bodisi v obliki elektronskih povezav do spletnih strani, na katerih bodo relevantne listinske informacije Vlagatelju prosto dosegljive, ter

- Vlagateljeve zahtevke po informacijah v obliki vprašanj ali listin, ki ne sodijo v delovno področje NLZOH, nemudoma odstopil pristojni instituciji ali (državnemu) organu, Vlagatelju pa hkrati posredoval dopis o odstopljenih zadevah pisno obvestil.

- Vse pisne odpravke NZLOH pričakuje Vlagatelj na e-naslov [redacted]



**NACIONALNI LABORATORIJ ZA  
ZDRAVJE, OKOLJE IN HRANO**

SKUPNE STROKOVNE SLUŽBE

Zahtevi za informacijo javnega značaja se ugotovi v delu, ki se nanaša na informacije o cepivih, tako, da se mu odgovor posreduje na elektronski naslov: [redacted]  
V ostalem se prosilčeva zahteva za informacijo javnega značaja zavrne.

Po določilu 4. člena Zakona o dostopu do informacij javnega značaja je informacija javnega značaja informacija, ki izvira iz delovnega področja organa, nahaja pa se v obliki dokumenta, zadeve, dosjeja, registra, evidence ali drugega dokumentarnega gradiva (v nadaljnjem besedilu: dokument), ki ga je organ izdelal sam, v sodelovanju z drugim organom, ali pridobil od drugih oseb.

Z dokumenti, zaprošenimi pod točkami 10. do 17. NLZOH ne razpolaga v takšni obliki, ki jo zahteva prosilec, ker NLZOH za diagnostiko Covid19 ne uporablja gojitvenih metod, temveč za dokazovanje virusne RNK v kužninah uporablja teste, ki so validirani, imajo CE-IVD oznako, izvaja jih od prvega dne epidemije po protokolih proizvajalca, pred uporabo jih verificira po internih navodilih za delo, ki so izključno namenjeni laboratorijskemu osebju in so opredeljeni kot poslovna skrivnost, zato prosilca napotuje na svetovni splet, kjer so številni peer-viewed članki, v katerih je opisano gojenje virusa SARS-CoV-2 na celičnih kulturah.

V nadaljevanju prosilec prosi za pojasnila (tč. 18. in 19.). Ob tem NLZOH pojasnjuje, da skladno s 4. členom ZDIJZ informacijo javnega značaja predstavlja samo dokument, ki že obstaja v neki materialni obliki oz. tisti dokument, ki ga je organ v okviru svojega delovnega področja že izdelal oz. pridobil in ga ni dolžan ustvariti šele na podlagi zahteve. Pojasnilo tako ne predstavlja informacije javnega značaja, saj to ni dokument, s katerim bi NLZOH že razpolagal.

V zvezi s tč. 20 prosilčevih vprašanj je potrebno pojasniti, da NLZOH ni pristojen za interpretacijo izvidov drugih izvajalcev, da izvid vsebuje posebne vrste osebnih podatkov, katerega razkritje bi pomenilo kršitev varstva osebnih podatkov, vsebina izvida je določena v Pravilniku o pogojih, ki jih morajo izpolnjevati laboratoriji za izvajanje preiskav na področju laboratorijske medicine, podatki o skupnem številu opravljenih PCR testiranj in skupnem številu testiranih oseb so vsakodnevno objavljeni na tiskovnih konferencah Vlade RS in na <https://covid-19.sledilnik.org/sl/stats>.

Ob tem velja še poudariti, da upošteva naloge, ki jih NLZOH v skladu s 23. členom Zakona o zdravstveni dejavnosti izvaja, ni organ, ki bi izvajal naloge oblasti in ob znani epidemiološki situaciji priprava zahtevnih strokovnih pojasnil še dodatno obremenjuje vrhunski strokovni kader, ki mora biti na razpolago za izvajanje zakonskih nalog.

Upošteva vse zgoraj ugotovljeno je odločeno kot izhaja iz izreka.

Nacionalni laboratorij za zdravje, okolje in hrano in prosilec krijeta vsak svoje stroške postopka.



**NACIONALNI LABORATORIJ ZA  
ZDRAVJE, OKOLJE IN HRANO**

SKUPNE STROKOVNE SLUŽBE

**Pouk o pravnem sredstvu:** Zoper to odločbo je dovoljena pritožba na Informacijskega pooblaščenca, Dunajska cesta 22, 1000 Ljubljana, v 15 dneh po vročitvi odločbe. Pritožba se vložijo pisno ali ustno na zapisnik pri organu, ki je izdal to odločbo. Pritožba je takse prosta.



Po pooblastilu direktorice:  
Vlasta Likar, univ. dipl. prav.

Vročiti:

- [REDACTED]
- v vednost: Informacijski pooblaščenec
- Arhiv – tu.

**ENGLISH TRANSLATIONS (AS PROVIDED BY THE FOI SUBMITTER)  
OF QUESTIONS 10-17 AND NLZOH'S INITIAL RESPONSE**

10) Glede na z državnimi predpisi določeno vlogo in namenom ter pomenom NLZOH na področju javnega zdravja, Vlagatelj domneva, da je NLZOH v lastnih laboratoriju dokazal fizični obstoj virusa iz vzorcev okuženih oseb ob upoštevanju Kochovig in/ ali Riverjevih postulatov, zato Vlagatelj pričakuje listinsko informacijo, v kateri NLZOH to izkazuje.

**Given the role and purpose determined by state regulations and the importance of NLZOH in the field of public health, the Applicant assumes that NLZOH proved in its own laboratory the physical existence of the virus from samples of infected persons taking into account Kochovig and / or River's postulates, which NLZOH demonstrates this.**

11) Če NLZOH fizični obstoj virusa ni dokazal, Vlagatelj pričakuje, da mu NLZOH predloži listinsko informacijo laboratorija, ki je dokazal fizični obstoj virusa?

**If the NLZOH has not proved the physical existence of the virus, does the Applicant expect the NLZOH to provide him with documentary information from the laboratory that proved the physical existence of the virus?**

12) Če fizični obstoj virusa(splah) ni laboratorijsko dokazan po Kochovih in/ali Riverjevih postulatih, vlagatelj pričakuje listinsko informacijo,ki (kakorkoli) dokazuje obstoj virusa?

**If the physical existence of the virus (at all) is not laboratory proven according to Koch's and / or River's postulates, does the applicant expect documentary information that (in any way) proves the existence of the virus?**

13) Ali se je celotna (izolirana) DNA sekvenca virusa pridobila iz okuženih pacientov ali računalniško z algoritmi iz vzorcev genske banke? Vlagatelj pričakuje,da mu NLZOH predloži listinsko informacijo kdo je prvi izvedel celotno( biokemično karakterizicijo) DNA sekvenco virusa?

**Has the entire (isolated) DNA sequence of the virus been obtained from infected patients or by computer algorithms from gene bank samples? The applicant expects the NLZOH to provide him with documentary information as to who first performed the entire (biochemical characterization) DNA sequence of the virus?**

14) Ali so bili opravljeni vsi potrebni kontrolni eksperimenti, da se izloči možnost,da ta sekvenčna struktura i.e. genetski sev, ki je pripisan temu virusu, ne izvira iz drugega vira in da je neškodljiv?

**Have all the necessary control experiments been performed to rule out the possibility that this sequence structure i.e. the genetic strain attributed to this virus does not originate from another source and is harmless?**

15) Ali so bile opravljene vse potrebne kontrole, da se izloči, da eksperimentalna priprava, i.e. okužba celične kulture (e.g. VeroE6 celice/celice iz jeter opic), s katero se je obdelala celična kultura, ni posledica afekta, ki bi se tako pomotoma pripisal zaznavanju virusa?

**Have all the necessary controls been carried out to rule out that the experimental preparation, i.e. is the cell culture infection (eg VeroE6 cells / monkey liver cells) treated with the cell culture not the result of an affect so mistakenly attributed to virus detection?**

16) Glede na ( uradno) informacijo, da virus povzroča C19, vlagatelj od NLZOH pričakuje listinsko informacijo, ki pri ljudeh to vzročnost virusa in C19 dokazuje?

**According to (official) information that the virus causes C19, does the applicant expect from NLZOH documentary information that proves this causality of the virus in humans and C19?**

17) Ali NLZOH pri odkrivanju virusa s PCR testom uporablja Corman-Drosten protokol ali kateri drugi protokol? Vlagatelj pričakuje od NLZOH pričakuje ali potrditev ali listinsko informacijo o protokolu, ki ga pri svojem delu upošteva NLZOH.

**Does NLZOH use the Corman-Drosten protocol or any other protocol to detect the virus by PCR test? The applicant expects from the NLZOH either confirmation or documentary information on the protocol that the NLZOH follows in its work.**

#### **ANSWER from NLZOH regarding questions 10-17**

Z dokumenti, zaprošenimi pod točkami 10. do 17. NLZOH ne razpolaga v takšni obliki, ki jo zahteva prosilec, ker NLZOH za diagnostiko C19 ne uporablja gojitvenih metod, temveč za dokazovanje virusne RNK v kužninah uporablja teste, ki so validirani in imajo CE-IVD oznako, izvaja jih od prvega dne epidemije po protokolu proizvajalca, pred uporabo jih verificira po internih navodilih za delo, ki so izključno namenjeni laboratorijskemu osebju in so opredeljeni kot poslovna skrivnost, zato prosilca napotuje na svetovni splet, kjer so številni peer-viewed članki, v katerih je opisano gojenje virusa SARS-CoV-2 na celičnih kulturah

**The documents requested under points 10 to 17 are not available to the NLZOH in the form required by the applicant, as the NLZOH does not use culture methods to diagnose C19, but uses tests that are validated and CE-certified to detect viral RNA in infectious diseases. IVD label, carried out from the first day of the epidemic according to the manufacturer's protocol, verified before use according to internal work instructions, which are exclusively intended for laboratory staff and are defined as a business secret, so the applicant is referred to the World Wide Web, where many peer-viewed articles, which describe the cultivation of SARS-CoV-2 virus on cell cultures**



## INFORMACIJSKI POOBlašČENEC

Dunajska cesta 22,  
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T: 01 230 9730  
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gp.ip@ip-rs.si  
www.ip-rs.si

Številka: 090-121/2021/7  
Datum: 7. 6. 2021

Informacijski pooblaščenec po informacijski pooblaščenki Mojci Prelesnik, v nad. IP, na podlagi 2. člena Zakona o Informacijskem pooblaščenecu (Ur. l. RS, št. 113/05 in 51/07-ZustS-A, v nad. ZInFP), 3. in 4. odstavek 27. člena Zakona o dostopu do informacij javnega značaja (Ur. l. RS, št. 51/06 – UPB, 117/06 – ZDavP-2, 23/14, 50/14, 19/15 – odl. US in 102/15; v nad. ZDIJZ) ter 1. odstavek 248. člena ter 1. in 3. odstavek 251. člena Zakona o splošnem upravnem postopku (Ur. l. RS, št. 24/06 – UPB, 105/06–ZUS-1, 126/07-ZUP-E, 65/08-ZUP-F in 8/10-ZUP-G in 82/13-ZUP-H; v nad. ZUP), o pritožbi [redacted] z dne 1. 4. 2021, zoper odločbo Nacionalnega laboratorija za zdravje, okolje in hrano, Prvomajska ulica 1, 2000 Maribor (v nad. organ), št. 161-0-7-IJZ-3/2021 z dne 15. 3. 2021, v zadevi dostopa do informacij javnega značaja, izdaja naslednjo

### ODLOČBO

1. Pritožbi prosilca z dne 1. 4. 2021 zoper odločbo Nacionalnega laboratorija za zdravje, okolje in hrano, št. 161-0-7-IJZ-3/2021 z dne 15. 3. 2021, se delno ugotovi in se izpodbijana odločba delno odpravi ter se zadeva v delu, ki se nanaša na 17. in 20.2. točko zahteve prosilca, vrne organu v ponovno odločanje. Organ je dolžan o zahtevi prosilca v tem delu odločiti brez odlašanja, najpozneje pa v 30 (tridesetih) dneh od prejema te odločbe.
2. V preostalem delu se pritožba prosilca zavrne.
3. V postopku reševanja te pritožbe niso nastali posebni stroški.

### OBRAZLOŽITEV:

Prosilca je dne 9. 2. 2021 na organ vložil zahtevo za dostop do informacij javnega značaja s sledečo vsebino:

A. Virus SARS-CoV-2 (v nad. : virus) in bolezen Covid-19 (v nad. : C19)

10. Prosilec domneva, da je organ, iz vzorcev okuženih oseb, ob upoštevanju Kochovih in/ali Riverjevih postulatov, v lastnem laboratoriju dokazal fizični obstoj virusa, zato prosilec od organa pričakuje listinsko informacijo, v kateri organ to izkazuje.

11. Če organ fizičnega obstoja virusa ni dokazal, naj predloži listinsko informacijo laboratorija, ki je dokazal fizični obstoj virusa.

12. Če fizični obstoj virusa (sploh) ni laboratorijsko dokazan po Kochovih in/ali Riverjevih postulatih, prosilec prosi za listinsko informacijo, ki (kakorkoli) dokazuje obstoj virusa.

13. Ali se je celotna (izolirana) DNA sekvenca virusa pridobila iz okuženih pacientov ali računalniško, z algoritmi iz vzorcev vzeti iz genske banke? Prosilec pričakuje, da mu organ predloži listinsko informacijo, kdo je prvi izvedel celotno (biokemično karakterizacijo) DNA sekvenco virusa.

14. Ali so bili opravljeni vsi potrebni kontrolni eksperimenti, da se izloči možnost, da ta sekvenčna struktura, i.e. genetski sev, ki je pripisan temu virusu, ne izvira iz drugega vira in da je neškodljiv.

15. Ali so bili opravljene vse potrebne kontrole, da se izloči, da eksperimentalna priprava, i.e. okužba celične kulture (e.g. VeroEG celice/celice iz jeter opic), s katero se je obdelala celična kultura, ni posledica efekta, ki bi se tako pomotoma pripisal zaznavanju virusa.

16. Glede na (uradno) informacijo, da virus povzroča C19, prosilec pričakuje listinsko informacijo, ki pri ljudeh to vzročnost virusa in C19 dokazuje.

17. Ali organ pri odkrivanju virusa s PCR testom uporablja Corman-Drostenov protokol ali kateri drug protokol? Prosilec pričakuje ali pritrditev ali listinsko informacijo o protokolu, ki ga pri svojem delu upošteva organ.

18. Glede na zapis v javno dostopni informaciji "PCR testi so zanesljivi." avtorjev Petra Vovka, mikrobiologinja v sodelovanju z Majo Bombek Ihan ter Matjažem Reteljem, da gre za osebna/strokovna mnenja in ne nujno mnenja delodajalca (organa) in v kateri je navedeno, da se za detekcijo virusa s PCR testom opravi 40 ciklov (pomnoževanj) kratkih zaporedij DNA, medtem ko Corman-Drostenov protokol navaja 45 ciklov.

18.1. Organ naj pojasni, zakaj ta razlika (ali je znanstveno/strokovno ali drugače utemeljena) ter prosilcu predloži listinsko informacijo utemeljitve odstopanja.

18.2. Organ naj pojasni, ali dosledno in ves čas (od marca 2020) pri detekciji virusa s PCR testom upošteva navodila proizvajalcev glede števila.

18.3. Organ naj pojasni, ali dosledno in ves čas (od marca 2020) uporablja na isti/enaki napravi isto število ciklov za detekcijo virusa.

18.4. Če je organ spreminjal število ciklov, naj prosilcu predloži listinsko informacijo o razlogih in ciljih spreminjanja števila ciklov ter o rezultatih odkrivanja in potrjevanja virusa z različnim številom pomnoževanj kratkih zaporedij DNA.

19. V javno dostopni informaciji "PCR testi so zanesljivi." je navedeno: "Vrednost Ct je zaporedna številka cikla, pri katerem signal vzorca doseže prag, ki je potreben za pozitiven rezultat. Če je Ct nizek, je bilo v vzorcu veliko virusnih genov. Če je Ct visok, je bilo v vzorcu malo virusnih genov.

19.1. Ker prosilcu ni jasno, v kakšni povezavi so navedbe v javno dostopni informaciji "PCR testi so zanesljivi." s "standardnimi" 40 Ct, od organa pričakuje pojasnilo, ali kljub vsemu obstaja minimum pomnoževanj, ki dokazuje prisotnost virusa in s tem pozitivnost testirane osebe ter maksimum pomnoževanj, ki dokazuje odsotnost virusa in s tem negativnost testirane osebe, kot npr. Ct 35 za pozitivnost in Ct 40 za negativnost.

19.2. Ali PCR odkrije celotno sekvenco domnevnega virusa?

19.3. Ali je "količina" virusa merljiva in če, kako?

19.4. Ali že vsaka dokazana "količina" virusa dokazuje okuženost z virusom?

19.5. Ali lahko PCR časovno določi, kdaj je človek pridobil virus?

19.6. Ali lahko PCR najde virusne delce iz preteklih okužb?

19.7. Ali lahko PCR zazna druge sorodne koronavirus?

19.8. Ali že vsaka s PCR testom ugotovljena prisotnost virusa pri neki osebi, ne glede na "količino" virusa, pomeni obolelost te osebe s C19?

19.9. Če vzorec preverimo s PCR testom pri 30 Ct in isti vzorec testiramo pri 40 Ct, bo vrednost enaka ali bo vplivalo na rezultat? Prosilec bi želel reference do teh podatkov.

20. Prosilec prilaga kopijo (anonimiziranega) izvida o prisotnosti oz. detekciji virusa pri osebi, ki ga je opravil Inštitut za mikrobiologijo in imunologijo iz Ljubljane (v nad. IMI).

20.1. Prosilec, izhajajoč iz predloženega izvida testiranja in ker iz javno dostopnih virov in informacij ni mogel razbrati in z gotovostjo ugotoviti, od organa pričakuje, da mu predloži listinsko informacijo, ki vsebuje navedbo državnega predpisa, na podlagi katerega je IMI, tako kot organ po 23.c členu ZNB, javno pooblaščen za izvajanje mikrobioloških preizkušanj na področju medicinske mikrobiologije za potrebe izvajalcev zdravstvene dejavnosti, ter od ECDC priznan nacionalni referenčni laboratorij.

20.2. Prosilec, ki mu v izvidu, po laičnem prepričanju, manjka vsaj podatek o številu opravljenih pomnoževanj, od organa pričakuje, da mu predloži listinsko informacijo – predpis oz. akt, ki določa vsebino izvida testiranja oz. izvida neposrednega dokazovanja virusa, ter predloži tudi en primerek lastnega (anonimiziranega) izvida dejansko opravljenega dokazovanja virusa.

20.3. Prosilec od organa pričakuje, da mu navede dejansko skupno število (vseh) opravljenih PCR testiranj ter skupno število (vseh) testiranih oseb v letu 2020 in v januarju 2021.

#### B. Cepivo proti C19 (v nad.: cepivo)

21. Je organ kakorkoli sodeloval z EMA pri izbiri ter kontroli in potrjevanju cepiva, in če, kako. Prosilec od organa pričakuje ali pisno zanihanje sodelovanja ali predložitve listinskih informacij, ki izkazujejo sodelovanje organa z EMA.

22. Je organ, pred dejanskim potrjevanjem cepiva vsakega proizvajalca v promet oz. uporabo na področju RS, samostojno in neodvisno ali po nalogu JAZMP analizo preskusil cepivo, bodisi kot redno bodisi kot izredno kontrolo kakovosti cepiva.

22.1. Če da, prosilec od organa pričakuje listinsko informacijo o opravljeni kontroli kakovosti cepiva vseh proizvajalcev.

22.2. Če ne, prosilec od organa pričakuje listinsko informacijo o opravljeni kontroli kakovosti cepiva vseh proizvajalcev od (evropskega) uradnega kontrolnega laboratorija, ki je opravil kontrolo kakovosti.

23. Ali je organ pri določanju redne in izredne kontrole kakovosti, ter ne-rutinskih ali posebnih preskusov samostojna in suverena institucija, ali je podrejena nekemu drugemu in kateremu organu oz. entiteti, ali lahko predlaga ne-rutinske ali posebne preskuse civilna družba in pod kakšnimi pogoji?

Vlagatelj pričakuje od organa, da bo:

- odgovoril na v tej zahtevi postavljena vprašanja,

- predložil zahtevane listinske informacije, bodisi v obliki elektronskih zapisov (word, pdf) ali prepisov (kopija/scan) listin, bodisi v obliki elektronskih povezav do spletnih strani, na katerih bodo relevantne listinske informacije prosilcu prosto dosegljive,

- zahtevke po informacijah v obliki vprašanj ali listin, ki ne sodijo v delovno področje organa, nemudoma odstopil pristojni inštituciji ali (državnemu) organu, prosilcu pa hkrati posredoval dopis o odstopljenih zadeva pisno obvestil.

Organ je o zahtevi prosilca odločil z odločbo št. 161-0-7-IJZ-3/2021 z dne 15. 3. 2021, s katero je zahtevi ugodil v delu, ki se nanaša na cepivo, v preostalem delu pa je zahtevo prosilca zavrnil. V obrazložitvi izpodbijane odločbe je organ navedel sledeče:

- Organ z dokumenti, zaprošenimi pod točkami od 10. do 17., ne razpolaga v takšni obliki, ki jo zahteva prosilec, ker organ za diagnostiko Covid-19 ne uporablja gojitvenih metod, temveč za dokazovanje virusne RNK v kužninah uporablja teste, ki so validirani, imajo CE-IVD oznako. Teste izvaja od prvega dne epidemije po protokolih proizvajalca, pred uporabo jih verificira po internih navodilih za delo, ki so namenjeni izključno laboratorijskemu osebju in so opredeljeni kot poslovna skrivnost. Organ zato prosilca napotuje na svetovni splet, kjer so številni peer-viewed članki, v katerih je opisano gojenje virusa SARS-CoV-2 na celičnih kulturah.

- Pod točko 18. in 19. prosilec prosi za pojasnila, pri čemer organ pojasnjuje, da skladno s 4. členom ZDIJZ informacijo javnega značaja predstavlja samo dokument, ki že obstaja v neki materialni obliki oz. tisti dokument, ki ga je organ v okviru svojega delovnega področja že izdelal oz. pridobil in ga ni dolžan ustvariti šele na podlagi zahteve. Pojasnilo tako ne predstavlja informacije javnega značaja, saj to ni dokument, s katerim bi organ že razpolagal.

- V zvezi s točko 20. organ pojasnjuje, da ni pristojen za interpretacijo izvidov drugih izvajalcev ter da izvid vsebuje posebne vrste osebnih podatkov, katerega razkritje bi pomenilo kršitev varstva osebnih podatkov. Vsebina izvida je določena v Pravilniku o pogojih, ki jih morajo izpolnjevati laboratoriji za izvajanje preiskav na področju laboratorijske medicine. Podatki o skupnem številu opravljenih PCR testiranj in skupnem številu testiranih oseb so vsakodnevno objavljeni na tiskovnih konferencah Vlade RS in na <https://covid-19.sledilnik.ora/sl/stat>.

Organ še poudarja, da upošteva naloge, ki jih izvaja v skladu s 23. členom Zakona o zdravstveni dejavnosti (Ur. l. RS, št. 23/05 – UPB, 15/08 – ZPacP, 23/08, 58/08 – ZZdrS-E, 77/08 – ZDZdr, 40/12 – ZUJF, 14/13, 88/16 – ZdPZD, 64/17, 1/19 – odl. US, 73/19, 82/20 in 152/20 – ZZUOOP, v nad. ZZDej), ni organ, ki bi izvajal naloge oblasti in ob znani epidemiološki situaciji priprava zahtevnih strokovnih pojasnil še dodatno obremenjuje vrhunski strokovni kader, ki mora biti na razpolago za izvajanje zakonskih nalog.

Zoper odločbo organa je prosilec dne 1. 4. 2021 vložil pritožbo, v kateri oporeka odločitvi organa v zavrnilnem delu in navaja sledeče:

1. Prosilec je po ZDIJZ na organ naslovil vprašanja od št. 10 do št. 16, vsa v zvezi z virusom SARS-CoV-2 in boleznijo Covid-19, ker je domneval, da je organ za izvajanje svojega ustanovitvenega namena in poslanstva, predvsem po 23. členu ZZDej, (1) bodisi v svojih laboratorijih po Kochovih postulatih dokazal obstoj virusa SARS-CoV-2 ter vzročnost virusa SARS-CoV-2 in boleznijo Covid-19, (2) bodisi, da organ uporablja dokaze nekega drugega priznanega slovenskega, evropskega ali svetovnega laboratorija. Slovenski medicinski slovar za Kochove postulate določa, da se sme nekemu mikrobu, med katere sodijo tudi virusi, priznati vzročnost pri določeni bolezni samo, kadar so izpolnjeni naslednji pogoji: (i) mikrob moramo najti pri vsakem primeru bolezni, ne pa tudi pri zdravih osebah, (ii) treba ga je osamiti od bolnika v čisti kulturi, (iii) treba ga je vcepiti zdravim občutljivim živalim, pri katerih mora povzročiti isto bolezen, in (iv) isti mikrob moramo znova osamiti iz okuženih živali. Direktorica organa je na novinarski konferenci o aktualnem stanju glede bolezni Covid-19 dne 24. 2. 2021 predstavila nacionalno strategijo sledenja znanim in novim različicam virusa SARS-CoV-2. Navedla je, da bodo sledenje v humanih vzorcih pokrivali organ, IMI Medicinske fakultete in Klinični inštitut za specialno laboratorijsko diagnostiko na pediatrični kliniki UKC Ljubljana. Namen spremljanja je hitro zaznavanje novih variant virusa z večjo prenosljivostjo oz. težjim potekom bolezni ter spremljanje njihovih vzorcev širjenja. Načrt spremljanja in pojavljanja širjenja novih variant virusa zajema 5 sklopov. Prvi sklop je spremljanje novih variant pri okuženih osebah z različnimi tehnikami sekvenciranja in sekvenciranjem celotnega virusnega genoma. To spremljanje bo potekalo kontinuirano z zajemom 5-10% PCR pozitivnih vzorcev iz celotne populacije v skladu s priporočilom Evropske komisije in še posebej v posebnih ciljnih skupinah teh bolnikov. Drugi sklop je prav tako spremljanje novih variant, vendar s pomočjo dodatnega testiranja s presejalnimi PCR testi. Iz navedb direktorice organa prosilec sklepa, da organ (i) prejme kužnine, (ii) na katerih opravi PCR teste in (iii) opravi sekvenciranje, delnega in/ali celotnega genoma virusa. Ob trditvi NIJZ, da virus SARS-CoV-2 povzroči bolezen Covid-19 in ob zgornjih navedbah je prosilec prepričan, da delo organa v zvezi z virusom temelji na znanosti ter na strokovnih raziskavah, dejstvih in dognanjih, ki dokazujejo (i) tudi fizični obstoj virusa SARS-CoV-2, in ne zgolj njegov (računalniško simuliran) genom, ter (ii) njegovo vzročnost bolezni Covid-19.

2. Prosilec je po ZDIJZ na organ naslovil vprašanja od št. 17 do št. 22, vsa v zvezi s PCR testom, ker organ za ugotavljanje virusa SARS-CoV-2 in bolezni Covid-19 uporablja PCR test, kar nedvoumno potrjuje del obrazložitve organa v l./l., nenazadnje pa tudi navedena izjava direktorice organa. S PCR testom se dokazuje materija, ki se mora zaradi majhnosti (začetnega) vzorca po točno določenem tehnično-tehnološkem postopku

multiplicirati, da se sploh lahko ugotovi njen obstoj. Materija pa je izključno fizična. Pri večini informacij, za katere organ smatra, da bi terjale pojasnilo, sploh ne gre za pojasnjevanje, ampak za odgovor da/ne in pa za informacijo v obliki listine ali spletne povezave, na podlagi katerih temelji delo organa, razen pri točki 18.1., saj gre za odstopanje med Corman-Drostenov protokolom in protokolom, kot je opisan v javno dostopni informaciji "PCR testi so zanesljivi." avtorjev Petra Vovko, mikrobiologinja v sodelovanju z Majo Bombek Ihan ter Matjažem Reteljem. Razlaga organa, da je protokol oz. navodila, po katerem opravlja teste, interne narave in poslovna skrivnost, prosilcu ni sprejemljiva. Prosilec je v točki 17. v zahtevi postavil neposredno in preprosto vprašanje, brez vsakršnega potrebnega pojasnjevanja. Corman-Drostenov protokol je javna listina, dosegljiva na spletni strani WHO, zato prosilec ne vidi temelja razlage organa, da gre za interno navodilo in poslovno skrivnost. Tudi napotilo organa, da naj prosilec poišče informacije na svetovnem spletu, prosilcu ni informacija v smislu 5. odstavka 6. člena ZDIJZ, ker niti ni konkretizirana do te mere, da bi prosilec in organ zagotovo imela isto informacijo, niti prosilec ne more vedeti, da na njej temelji delo organa, in je zato brezpredmetno.

3. Prosilec se strinja z delom obrazložitve organa, da ni pristojen dajati interpretacije izvidov drugih izvajalcev, vendar prosilec niti ni zahteval interpretacije, temveč informacijo v obliki listine ali povezave na svetovni splet, iz katere je razvidno pooblastilo drugih slovenskih laboratorijev za opravljanje nalog po 23.c členu ZZDej. Prosilec se organu zahvaljuje za v obrazložitvi dano informacijo o Pravilniku, ne more pa sprejeti trditve organa, da je število testiranih oseb javno dostopna prosta informacija. Znano je skupno število opravljenih testov in pa število okuženih oseb, koliko prebivalcev Slovenije je bilo dejansko testiranih, pa je podatek, ki prosilcu ni dosegljiv in mu je tako neznan.

4. Poudarjanje organa, da ni organ oblasti itd., je prosilcu brezpredmetno. V kolikor organ ne bi bil zavezanec za informacije po ZDIJZ, ga pritožbeni organ ne bi niti pozval, da pritožniku odgovori in mu posreduje zahtevane informacije. Virus SARS-CoV-2 in bolezen Covid-19 sta v letu 2020 močno prizadela Svet in Slovenijo. Predvsem na svetovnem spletu je najti mnogo informacij, na verodostojnost le-teh pa slovenske prebivalce opozarjajo tako predstavniki oblasti kot strokovnjaki, ki z oblastjo sodelujejo pri reševanju zdravstvene krize. Ravno zato je prosilcu povsem nesprejemljiv izgovor organa, da mu dajanje informacije javnosti predstavlja obremenitev. Bolezen je vprašanje, ki najprej zadeva osebno človekovo sfero, če je bolezen razširjena, pa tudi javno. Molk javnih strokovnih institucij po prosilčevem prepričanju vodi v nezaupanje prebivalstva do teh institucij ter v informacijski kaos, kot smo mu priča tudi v zadnjem letu. Prosilec na organ zahteve sploh naslovil ne bi, v kolikor bi vse informacije, po katerih v zahtevi povprašuje, bile prosto dostopne z objavo na spletni strani organa.

IP je dne 19. 4. 2021 prejel dopis organa št. 161-0-7-IJZ-3/2021-1 z dne 16. 4. 2021, s katerim mu je ta, na podlagi 245. člena ZUP, odstopil pritožbo, kot dovoljeno, pravočasno in vloženo s strani upravičene osebe.

Na podlagi poziva IP št. 090-121/2021/2 z dne 4. 5. 2021, je organ IP posredoval dopis št. 161-0-7-IJZ-3/2021, z dne 10. 5. 2021, kateremu je priložil splošno dokumentacijo sistema vodenja kakovosti (t.i. interna navodila za delo oz. uporabo opreme). Dodatno je organ navedel, da je predmetno dokumentacijo v Klasifikacijskem načrtu organa, št. 020-1/2020 z dne 10. 7. 2020, opredelil kot poslovno skrivnost po Zakonu o poslovni skrivnosti (Ur. l. RS, št. 22/19, v nad. ZPosS), da jo ohrani kot skrivnost, saj zajema nerazkrito strokovno znanje, izkušnje in poslovne informacije, ki niso splošno znane ali lahko dosegljive osebam v krogih, ki se običajno ukvarjajo s to vrsto informacij, temveč je izključno namenjena laboratorijskemu osebju za izvajanje mikrobioloških preizkušanj znotraj organa in ima tržno vrednost. Zahtevana dokumentacija je dejansko zaščitena kot dokumentacija, za katero velja poslovna skrivnost že po subjektivnem kriteriju (sodba Upravnega sodišča v zadevi I U 1573/2014 z dne 18. 11. 2015 v povezavi s sodbo Upravnega sodišča v zadevi I U 599/2014-20 z dne 03. 11. 2015). Nedvomno gre tudi za dela, ki so izražena in predstavljajo intelektualno stvaritev avtorjev in spadajo v znanstveno področje človeške ustvarjalnosti po Zakonu o avtorskih in sorodnih pravicah (Ur. l. RS, št. 16/07 – UPB, 68/08, 110/13, 56/15 in 63/16 – ZKUASP; v nad. ZASP). IP je v podobni zadevi (npr. odločba št. 090-95/2012/12 z dne 20. 06. 2012) že odločal in je zahtevo prosilca zavrnil, ker zahtevani dokumenti (navodila za uporabo opreme) predstavljajo varovano avtorsko delo. Zoper točki zahteve št. 21. in 22. se prosilec ne pritožuje, zato nista predmet odločanja v pritožbenem postopku, glede točk zahteve do 10. do 20. pa organ podaja sledeča pojasnila, po posameznih točkah zahteve:

Točka 10.: Organ ne razpolaga z listinsko informacijo, ker v vzorcih ne dokazuje obstoja viabilnega virusa z gojitvenimi metodami, temveč v vzorcih dokazuje prisotnost nukleinske kisline (NK), to je fizični del virusa.

Točka 11.: Organ ne razpolaga z listinsko informacijo, ker v vzorcih ne dokazuje obstoja viabilnega virusa z gojitvenimi metodami. Fizični obstoj virusa na celičnih kulturah in živalskih modelih je izpričan v več člankih, ki so dosegljivi na spletu (prosto ali proti plačilu) in si jih lahko prosilec poišče sam. Kot primer organ navaja: DOI:10.1093/cid/ciaa325.10.1038/S41586-020-2342-5. 10.1016/i.virusres.2007.03.013.

Točka 12.: Organ ne razpolaga z listinsko informacijo, ker v vzorcih ne dokazuje obstoja viabilnega virusa z gojitvenimi metodami. Virusi SARS-CoV-2, ki so jih v celičnih kulturah izolirali na IMI Medicinske fakultete so

deponirani in registrirani v Evropskem arhivu virusov EVAg, dostopno na [https://www.european-virus-archive.com/evag-portal/field\\_provider/ul-123](https://www.european-virus-archive.com/evag-portal/field_provider/ul-123).

Točke 13., 14., 15., 18. (18.1., 18.2., 18.3., 18.4.), 19. (19.1., 19.2., 19.3., 19.4., 19.5., 19.6., 19.7., 19.8., 19.9.): To je vprašanje in ni informacija javnega značaja, kot jo določa 4. člen ZDIJZ. ZDIJZ organu ne nalaga obveznosti, da bi za prosilca ustvaril ali pridobil dokumente, s katerimi v času odločanja o njegovi zahtevi ne razpolaga. Ravno tako organu informacij za prosilca ni treba obdelovati, povezovati, analizirati ali mu dajati pojasnil.

Točka 16.: Organ ne razpolaga z listinsko informacijo, ker ne izvaja kliničnih poskusov in je diagnostični medicinski laboratorij. V diagnostiki okužb laboratoriji CMM dokazujejo prisotnost virusnih NK v vzorcu bolnika.

Točka 17.: Laboratorij pri svojem delu uporablja na tržišču dostopne molekularne metode za dokazovanje NK virusa v vzorcih, pri postopkih in interpretaciji sledi navodilom proizvajalca testov. Navodila so priloga dopisu in so zaščiteni kot poslovna skrivnost. Organ pri tem pripominja, da prosilec motiva oz. utemeljitve zahteve po pridobitvi listinske informacije o protokolu, ki ga pri svojem delu upošteva organ, ni podal, kar je pomembno pri tehtanju pravice do dostopa ter javnega interesa po razkritju z interesom prizadete stranke, da do razkritja ne pride zaradi varstva poslovnih skrivnosti (stališče Upravnega sodišča v sodbi v zadevi I U 599/2014-20 z dne 03. 11. 2015).

Točka 20. (20.1.): Organ ni pristojen za podajanje informacij drugih izvajalcev, zato prosilca napotuje, da za zahtevane informacije zaprosi IMI ter ga napotuje na spletno stran <http://www.imi.si/o-institutu/nasa-kakovost>. Pri tem pripominja, da so naloge organa izrecno določene v 23.c členu ZZDej in ne po ZBN, kot zmotno navaja prosilec, v navedeni določbi pa tudi ni določeno pooblastilo za izvajanje mikrobioloških preizkušanj na področju medicinske mikrobiologije za potrebe izvajalcev zdravstvene dejavnosti za IMI. Ministrstvo za zdravje skladno s 4. členom Pravilnika o pogojih, ki jih morajo izpolnjevati laboratoriji za izvajanje preiskav na področju laboratorijske medicine izda dovoljenje. ECDC ni institucija, ki presoja laboratorije. Referenčnost laboratorijev določi vsaka država sama.

Točka 20.2.: Organ izvida, ki vsebuje posebne vrste osebnih podatkov, pritožniku ne posreduje, ker bi razkritje pomenilo kršitev varstva osebnih podatkov. Vsebino izvida določa 13. člen Pravilnika o pogojih, ki jih morajo izpolnjevati laboratoriji za izvajanje preiskav na področju laboratorijske medicine. V zvezi s tem organ pojasnjuje, da je način podajanja rezultata preiskave v pristojnosti stroke. PCR, ki se izvaja za detekcijo SARS-CoV-2, je kvalitativna metoda in noben predpis ne določa, da je treba podajati število ciklov. Analogno je pri kvalitativnih PCR metodah za diagnostiko drugih virusov, kjer število ciklov prav tako ni podano.

Točka 20.3.: Organ prosilca ponovno napotuje na spletno stran Covid-19 sledilnik, kjer so objavljeni številni podatki, med drugim tudi podatki o testiranjih PCR, potrjenih primerih, itd., in sicer za vsak dan - od začetka testiranja dalje. V primeru, da prosilec ne zna uporabljati navedene aplikacije, ga organ napotuje na upravljavca aplikacije Covid-19 ali NIJZ, ki vodi in upravlja zbirke podatkov s področja zdravja in zdravstvenega varstva skladno s 23.a členom ZZDej.

Glede pritožbenih navedb prosilca organ po točkah pojasnjuje sledeče:

Točka 1.: Vsekakor delo organa, ki izvaja mikrobiološka preskušanja na področju medicinske mikrobiologije za potrebe izvajalcev zdravstvene dejavnosti v skladu s 23.c členom ZZDej temelji na znanosti in strokovnih raziskavah. Za dokazovanje virusov (velja za SARS-CoV-2 in druge viruse) se danes najpogosteje uporabljajo molekularne tehnike, kjer dokazujemo prisotnost nukleinske kisline, to je genoma virusa v odvzetem vzorcu. Za ta postopek ne potrebujemo viabilnega („živega“) virusa, zato vzorec že na začetku inaktiviramo in tako je postopek varen za izvajalca. Najpogosteje uporabljena molekularna tehnika je v ta namen PCR (Polymerase Chain Reaction oz. Verižna reakcija s polimerazo). Odvisno od uporabljenih metod in naprav postopki trajajo od ene do približno štirih ur. Dokazovanje virusne nukleinske kisline (RNK) v vzorcu je podobno kot forenziki dokazujejo genom (DNK) iskanega človeka na kraju dogodka. Kadar želimo dokazati obstoj viabilnega virusa (virusa, ki je sposoben okužiti naslednjo celico), nanesimo vzorec (npr. bris nosno-žrelnega predela) na ustrezno celično kulturo z ustreznim gojiščem. Nato več dni opazujemo pod mikroskopom, ali se je pojavil citopatogen učinek, ki nam pove, da se virus v celicah namnožuje. To potem dodatno dokažemo še z drugimi tehnikami (npr. imunofluorescenca). Ker delamo z viabilnim virusom in je SARS-CoV-2 dobro prenosljiv in lahko povzroči resno obolenje, je za tako delo predpisano, da se ga lahko izvaja le v laboratoriju s stopnjo biološke varnosti III. Postopek traja približno štiri do osem dni in se ga v diagnostične namene ne izvaja, ker bi preiskava trajala predolgo. Za preprečevanje širjenja nalezljive bolezni kot je Covid-19 je potrebno hitro ukrepanje, zato gojitvenih metod za dokazovanje viabilnega virusa SARS-CoV-2 v diagnostične namene, ki so predmet pritožnikovih vprašanj, pri organu ne izvajajo, zato tudi ne razpolagajo z zahtevano listinsko dokumentacijo.

Točka 2.: Kot je bilo že večkrat pojasnjeno, organ v vzorcih ne dokazuje obstoja viabilnega virusa z gojitvenimi metodami, temveč v vzorcih dokazuje prisotnost nukleinske kisline (NK). Organ za preiskovanje vzorcev uporablja metode, ki so znanstveno preizkušene in jih priznavajo mednarodna ali domača strokovna združenja, skladno z 10. členom Pravilnika o pogojih, ki jih morajo izpolnjevati laboratoriji za izvajanje preiskav na področju laboratorijske medicine. Prosilec je v svoji zahtevi III. del: A. Virus SARS-CoV-2 in bolezen Covid-19 posredoval 20 vprašanj s podvprašanji in zahteva od organa, da mu odgovori na vprašanja. Pri tem organ pripominja, da

vprašanja niso informacija javnega značaja kot jo določa 4. člen ZDIJZ. ZDIJZ organu ne nalaga obveznosti, da bi moral prosilcu posredovati informacijo kot odgovor na vprašanje, ki je vezano na delovno področje organa, kot to določa 45. člen ZMed, kar pa ne velja za prosilca. Zato je zmotno stališče prosilca, da mu je organ dolžan odgovoriti z da/ne.

**Točka 3.** Pristojnost za opravljanje nalog določenih v 23.c členu ZZDej ima samo organ. Ni mogoče slediti navedbi prosilca, da število testiranih oseb ni javno dostopna prosta informacija in da podatek prosilcu ni dosegljiv in ne znan. Kot je bilo že pojasnjeno, so podatki o številu testiranj PCR na posamezni dan, že od začetka testiranj dostopni na spletni strani Covid-19 sledilnik <https://covid-19.sledilnik.org/si/stats>. kjer lahko prosilec izbere tudi obdobje za katero želi imeti podatke.

**Točka 4.** Organ pripominja, da prosilec ne loči dveh pravnih oseb, in sicer NIJZ in NLZOH, ki opravljata različne naloge, NIJZ skladno s 23.a členom ZZDej in NLZOH skladno s 23.c členom ZZDej. Tako prosilec v pritožbi zmotano naslavlja organ kot NIJZ. Organ se nikakor ne strinja s prosilcem, da bi morale biti vse informacije, po katerih v svoji zahtevi povprašuje, prosto dostopne z objavo na spletni strani organa, ker vse povpraševane informacije, kot je bilo že večkrat pojasnjeno, ne izvirajo iz delovnega področja organa in se ne nahajajo v materializirani obliki. Organ javnosti ažurno poroča relevantne strokovne informacije v zvezi z virusom SARS-CoV-2, ki izvirajo iz njegovega delovnega področja tudi na tiskovnih konferencah vlade in prosilca napotuje na spletno stran <https://www.gov.si/neposredni-prenos/>, da spremlja neposredni prenos ali pa si informacije ogleda za nazaj na spletni strani <https://4d.rtvsllo.si/arhiv/tv-informativni/>.

Organ ponovno poudarja, da glede na naloge, ki jih izvaja v skladu s 23.c členom ZZDej, z vidika zavezanosti po ZDIJZ ni organ, ki bi izvajal naloge oblasti, še posebno ob dejstvu, da ob znani epidemiološki situaciji priprava strokovnih pojasnil in odgovorov na vprašanja za posamezne državljane dodatno obremenjuje vrhunski strokovni kader, ki mora biti na razpolago za izvajanje zakonsko opredeljenih nalog. Vsekakor pa strokovno usposobljeno osebje ažurno pripravlja odgovore na vprašanja, ki jih novinarji skladno z ZMed naslovijo na organ, zato je javnost obveščena. Glede na to, da so navodila za delo in uporabo opreme izključno namenjena strokovno usposobljenemu laboratorijskemu osebju organa, na podlagi katerih izvajajo laboratorijske preiskave in niso prosto dostopna ter zanj prav gotovo ne obstoji javni interes o podrobnih postopkih izvedbe preiskav in uporabe specifične opreme, organ meni, da je izpodbijana odločba pravilna in zakonita ter temelji na določbah ZDIJZ. Dopisu je organ, poleg Klasifikacijskega načrta organa z dne 10. 7. 2020, priložil še sledeče dokumente, vse z oznako poslovna skrivnost:

- Declaration of conformity NeuMoDx SARS-CoV2 ASSAY, z dne 19. 3. 2020 (1 stran),
- Delo z aparatom NeuMoDx 96 ND-IV-NLZOH-OMMMB-08-31, z dne 7. 9. 2020 (8 strani),
- Dokazovanje virusa SARS-Cov-2 s testom NeuMoDx ND-IV-NLZOH-OMMMB-08-32, z dne 7. 9. 2020 (6 strani),
- Neumodox SARS-CoV-2 Assay Instruction For Use, januar 2021 (23 strani).

### **Pritožba je delno utemeljena.**

IP uvodoma pojasnjuje, da je kot organ druge stopnje, v skladu z 247. členom ZUP, dolžan preizkusiti odločbo v delu, v katerem jo pritožnik oz. prosilec izpodbija. Odločbo preizkusi v mejah pritožbenih navedb, po uradni dolžnosti pa preizkusi, ali ni prišlo v postopku na prvi stopnji do bistvenih kršitev postopka in ali ni prekršen materialni zakon.

V obravnavanem primeru ni sporno, da organ sodi med organe, zavezane po ZDIJZ.

Kot izhaja iz določbe 1. odstavka 4. člena ZDIJZ in tudi določbe 1. odstavka 1. člena ZDIJZ, informacija javnega značaja predstavlja samo dokument, ki že obstaja, je že ustvarjen, oz. dokument, ki ga je organ v okviru svojega delovnega področja že izdelal oz. pridobil. Gre za pogoj, ki je v teoriji poznan kot »kriterij materializirane oblike«. Organi, ki so zavezanci po ZDIJZ, so namreč dolžni omogočiti dostop le do že obstoječih informacij in niso dolžni ustvariti novega dokumenta ali pridobiti oz. vzpostaviti dokumenta, ki ga v času zahteve nimajo.

**Predmet tega pritožbenega postopka je vprašanje, ali je organ upravičeno zavrnil dostop do 10., 11., 12., 13., 14., 15., 16., 17., 18. (18.1. - 18.4.), 19. (19.1., - 19.9.) in 20. (20.1., - 20.3.) točke zahteve prosilca.**

#### **➤ K 1. točki izreka (17. in 20.2. točka zahteve prosilca)**

V pritožbenem postopku je IP ugotovil, da je organ z izpodbijano odločbo prosilcu zavrnil dostop do dokumenta oz. dokumentov, ki so predmet zahteve prosilca pod 17. točko, s sklicevanjem na izjemo iz 2. točke 6. člena ZDIJZ (poslovna skrivnost), brez da bi se organ uvodoma sploh opredelil do zahtevanega dokumenta oz. brez navedbe, kateri konkretni dokument oz. dokumenti so predmet presoje in po mnenju organa predstavljajo

poslovno skrivnost. Organ se je v izpodbijani odločbi v tem delu tudi le pavšalno skliceval na poslovno skrivnost, brez izkazovanja izpolnjevanja kriterijev za obstoj zatrjevanje izjeme po ZPosS, in sicer za vsak posamezni dokument, na katerega se nanaša zahteva prosilca oz. ustreza zahtevi prosilca, niti iz izpodbijane odločbe ni razvidno čigavo poslovno skrivnost organ, kot javni zavod, v konkretnem primeru sploh varuje.

Prav tako je organ zavrnil tudi zahtevo prosilca iz 20.2. točke, ki se nanaša na primer lastnega (anonimiziranega) izvida dejansko opravljenega dokazovanja virusa, s sklicevanjem na izjemo varstva osebnih podatkov (3. točka 1. odstavka 6. člena ZDIJZ), brez opredelitve, kateri konkretni dokument je bil predmet presoje, niti ni navedel, katere (varovane) oz. posebne vrste osebnih podatkov dokument vsebuje. Prav tako se organ ni opredelil, ali je informacije mogoče izločiti iz dokumenta ali ne oz. ali je obravnavanem primeru mogoče uporabiti t.i. institut delnega dostopa (7. člen ZDIJZ) - če je organ ocenil, da bi bila z razkritjem podatkov, vsebovanih na zahtevanem dokumentu, ogrožena njihova zaupnost, bi moral pojasniti, zakaj ob prekritju teh delov, prosilca ne bi bilo mogoče seznaniti z vsebino preostalega dela dokumenta. Hkrati bi organ moral bolj določno pojasniti tudi, kako bi dostop do zahtevanih podatkov kazal na točno določeno oz. določljivo osebo. Osebni podatek (npr. zdravstveno stanje) namreč ne more biti varovan že zgolj zaradi samega sebe, temveč le zato, ker je iz njega mogoče razbrati tudi identiteto posameznika ali posameznikovo lastnost, ki ga dela določljivega.

**Na podlagi navedenega je IP ugotovil, da se odločbe, zaradi pomanjkljive obrazložitve, v tem delu ne da preizkusiti in so posledično podane bistvene kršitve pravil postopka po 7. točki 2. odstavka 237. člena ZUP. IP je zato pritožbi prosilca v delu zahteve, ki se nanaša na 17. in 20.2. točko ugodil in na podlagi 3. odstavka 251. člena ZUP, izpodbijano odločbo v tem delu odpravil ter zadevo vrnil organu prve stopnje v ponovno odločanje, kot izhaja iz 1. točke izreka te odločbe.**

Vrnitev zadeve v ponovno odločanje IP utemeljuje z razlogi ekonomičnosti postopka. Poseben vidik načela ekonomičnosti iz 14. člena ZUP je tudi načelo učinkovitosti, ki od organov zahteva, da se preskrbi vse, kar je potrebno za pravilno ugotovitev dejanskega stanja in za zavarovanje pravic strank ter javnih koristi. To pa bo najlažje dosegel prav prvostopenjski organ, ker se zahteva prosilca nanaša na dokumente, ki so del dokumentacije organa, posledično organ razpolaga z vso dokumentacijo, ki je predmet presoje in razpolaga z vsemi podatki, ki jih potrebuje za ustrezno rešitev predmetne zahteve. Poleg navedenega se organ (še) ni spustil v vsebinsko obravnavo zadeve in se ni opredelil do zahtevanih informacij, pri čemer mu je ta možnost dana prav z vrnitvijo v ponovno odločanje.

V ponovljenem postopku je organ uvodoma dolžan jasno opredeliti, kateri dokumenti, ki jih zahteva prosilec, so predmet presoje, torej konkretno za vsak dokument, do katerega prosilec v 17. in 20.2. točki zahteve zahteva dostop oz. za vsak dokument, ki ustreza zahtevi prosilca. V primeru obstoja katere od izjem po določbah 5.a in 6. člena ZDIJZ je dolžan presojski tudi, ali je mogoče uporabiti institut delnega dostopa v skladu z določbami 7. člena ZDIJZ in 19. člena Uredbe o posredovanju in ponovni uporabi informacij javnega značaja (Ur. l. RS, št. 24/16; v nad. Uredba) ter natančno in določno opredeliti, v katerem delu se posamezni dokument prekrije in na podlagi katere konkretne izjeme od prostega dostopa. Določba 19. člena Uredbe namreč določa, da če dokument ali njegov del le delno vsebuje informacije iz 5.a in 6. člena ZDIJZ, se šteje, da jih je mogoče izločiti iz dokumenta, ne da bi to ogrozilo njegovo zaupnost, če jih je mogoče fizično odstraniti, prečrtati, trajno prekriti ali drugače napraviti nedostopne, če gre za dokument v fizični obliki; zbrisati kodirati, blokirati, omejiti oz. drugače napraviti nedostopne, če gre za dokument v elektronski obliki (1. odstavek). Ne glede na zapisano se šteje, da informacije iz dokumenta ni mogoče izločiti, če bi bilo tako izločeno informacijo mogoče razbrati iz drugih informacij v dokumentu (2. odstavek 19. člena Uredbe). Delni dostop je torej potrebno omogočiti vedno, ko (in če) delno razkritje ne bi ogrozilo zaupnosti varovanih informacij. Pomembna sta torej tehnični in vsebinski vidik.

Pri tem IP opozarja na določbo 44. člena ZUP, po kateri mora organ ves čas med postopkom po uradni dolžnosti skrbeti za to, da so v postopku udeleženi vsi, na katerih pravice ali pravne koristi bi lahko vplivala odločba. Opustitev te dolžnosti (če osebi, ki bi morala biti udeležena kot stranka ali stranski udeleženec v postopku, ta možnost ni bila dana) pa predstavlja bistveno kršitev pravil postopka po 2. točki 2. odstavka 237. člena ZUP. Organ mora postopek voditi skladno z ZUP in stranke, za katere meni, da bi odločitev lahko vplivala na njihove pravice in pravne koristi, povabiti k sodelovanju v postopku na formalno pravičen način.

Glede na to, da se je organ v izpodbijani odločbi in v odgovoru na poziv IP, pri dostopu do določenih/zahtevanih dokumentov, pavšalno skliceval na določene izjeme po ZDIJZ, IP v nadaljevanju opozarja na njihovo pravilno razlago in podaja nekaj napotkov, v zvezi z zatrjevanimi izjemami, ki jih mora organu upoštevati v ponovljenem postopku. V tem delu IP še dodaja, da dokazno breme, da so določene informacije izvzete iz prostega dostopa, nosi organ.

- Izjema iz 2. točke 1. odstavka 6. člena (poslovna skrivnost)

Pri zatrjevanju izjeme poslovne skrivnosti mora organ uvodoma upoštevati, da so zahtevani dokumenti nedvomno nastali po 20. 4. 2019, ko je začel veljati ZPosS, kar pomeni, da so podvrženi opredelitvi poslovne skrivnosti po določbah ZPosS in posledično mora organ izkazati izpolnjevanje kriterijev za obstoj poslovne skrivnosti po določbah ZPosS. Da so zahtevani dokumenti nedvomno nastali po začetku veljave ZPosS izhaja iz datumov na dokumentih, ki jih je organ IP posredoval skupaj z odgovorom na poziv in jih prepoznal kot dokumente, ki ustrezajo zahtevi prosilca pod 17. točko.

Za poslovno skrivnost, kot izjemo iz 2. točke 1. odstavka 6. člena ZDIJZ, se sicer štejejo informacije, ki izpolnjujejo zahteve za poslovno skrivnost v skladu z zakonom, ki ureja poslovne skrivnosti (ZPosS). Pojem poslovne skrivnosti po 2. členu ZPosS zajema nerazkrito strokovno znanje, izkušnje in poslovne informacije, ki izpolnjuje naslednje zahteve:

- je skrivnost, ki ni splošno znana ali lahko dosegljiva osebam v krogih, ki se običajno ukvarjajo s to vrsto informacij;
- ima tržno vrednost;
- imetnik poslovne skrivnosti je v danih okoliščinah razumno ukrepal, da jo ohrani kot skrivnost.

Domneva se, da je zahteva iz tretje alineje prejšnjega odstavka izpolnjena, če je imetnik poslovne skrivnosti informacijo določil kot poslovno skrivnost v pisni obliki in o tem seznanil vse osebe, ki prihajajo v stik ali se seznanijo s to informacijo, zlasti družbenike, delavce, člane organov družbe in druge osebe. Za poslovno skrivnost se ne morejo določiti informacije, ki so po zakonu javne, ali informacije o kršitvi zakona ali dobrih poslovnih običajev.

Glede na navedeno so poslovna skrivnost le tisti podatki, pri katerih so vse tri zgoraj naštetih zahteve kumulativno izpolnjene. Kot izhaja iz komentarja k 2. členu predloga zakona<sup>1</sup>, poslovna skrivnost pomeni strokovno znanje in izkušnje ter dragocene poslovne informacije, ki imetnikom omogočajo večjo konkurenčnost in uspešnost na trgu in s tem povečujejo donosnost, zaradi česar je v interesu imetnikov poslovnih skrivnosti, da te ostanejo nerazkrite oz. zaupne. Ob tem IP pripominja, da je v skladu s slovensko sodno prakso dokazno breme pri pojasnjevanju, zakaj zahtevane informacije pomenijo konkurenčno prednost, na subjektu, ki poslovno skrivnost zatrjuje.<sup>2</sup>

V tem delu IP še dodaja, da organ kot javni zavod, ki, na podlagi določb ZZdej opravlja naloge na področju zdravja, okolja in hrane, določene s posebnimi predpisi, ter na celotnem območju države združuje vse laboratorije in pripadajoče strokovne dejavnosti nekdanjih ZZV in IVZ, ne more zatrijevati poslovne skrivnosti za dokumente, ki izkazujejo njegovo javnopravno delovanje in morajo biti podvrženi transparentnosti. S tem se zagotavlja učinkovit nadzor nad delovanjem organa, kar zmanjšuje korupcijska tveganja, večja vestnost, poštenost, skrbnost in zaupanje, kar prispeva k temu, da ima tak organ večjo legitimnost, da se poveča zaupanje v razmerju do navedenega organa in da se poveča odgovornost organa do vseh državljanov v demokratični družbi. Organ pri svojem delovanju nedvomno zasleduje javni interes, kar pomeni, da so pomembni vsi temeljni podatki, na katerih temelji odločitev organa, ki jih ima javnost pravico izvedeti, zato je že pojmovno nemogoče, da bi tovrstni podatki, v celoti predstavljali poslovno skrivnost.

- Izjema iz 3. točke 1. odstavka 6. člena (osebni podatek)

Za obstoj opisane izjeme morata biti izpolnjena dva pogoja, in sicer:

- podatek mora ustrezati definiciji osebnega podatka,
- za razkritje osebnega podatka ne obstaja pravna podlaga (tj. da gre za varovan osebni podatek).

Uredba (EU) 2016/679 Evropskega parlamenta in Sveta z dne 27. aprila 2016 o varstvu posameznikov pri obdelavi osebnih podatkov in prostem pretoku takih podatkov ter o razveljavitvi Direktive 95/46/ES (Uradni list Evropske unije, št. L 119 z dne 4. 5. 2016; v nad. Splošna uredba o varstvu podatkov)[1], ki se v Republiki Sloveniji uporablja neposredno, v členu 4(1) določa, da je osebni podatek katera koli informacija v zvezi z določenim ali določljivim posameznikom (v nad.: posameznik, na katerega se nanašajo osebni podatki); določljiv posameznik je tisti, ki ga je mogoče neposredno ali posredno določiti, zlasti z navedbo identifikatorja, kot je ime, identifikacijska številka, podatki o lokaciji, spletni identifikator, ali z navedbo enega ali več dejavnikov, ki so značilni za fizično, fiziološko, genetsko, duševno, gospodarsko, kulturno ali družbeno identiteto tega

<sup>1</sup> <https://www.findinfo.si/download/razno/761d313c27b5103dc7b8.pdf>

<sup>2</sup> Tako upravno sodna praksa, ki se sicer nanaša na določbe ZGD-1, ki so veljale pred uveljavitvijo ZPosS, vendar pravno vprašanje po mnenju IP ostaja enako: npr. sodbe, št. U 284/2008 z dne 27. 5. 2009, št. U 1276/2008 z dne 11. 2. 2010, št. I U 1132/2015 z dne 27. 1. 2016.

posameznika. Organ mora pri sklicevanju na izjemo varstva osebnih podatkov jasno navesti, katere vse podatke vsebuje posamezni zahtevani/presojeni dokument in se jih šteje za osebne podatke (vrsta osebnega podatka), zakaj jih šteje za osebne (kako jih je mogoče povezati z določenim ali določljivim posameznikom) in katere od teh osebnih podatkov šteje za varovane, ker zakonodaja ne omogoča njihovega razkritja.

- O avtorskopravnem varstvu

V skladu s 5. členom ZASP je avtorsko delo individualna intelektualna stvaritev s področja književnosti, znanosti in umetnosti, ki je na kakršenkoli način izražena, če ni v ZASP drugače določeno. Iz navedene definicije in obstoječe sodne prakse ter pravne teorije izhaja pet predpostavk, ki morajo biti izpolnjene, da se posamezno delo šteje za avtorsko delo po ZASP, in sicer so to individualnost, intelektualnost oz. duhovnost, stvaritev, področje ustvarjalnosti in izraženost. Če torej posamezno delo izpolnjuje vse navedene predpostavke kumulativno, se šteje, da gre za avtorsko delo.

2. odstavek 25. člena ZDIJZ pravi, da se je na varstvo avtorske pravice v zvezi z omejitvijo načina seznanitve mogoče sklicevati le v primerih, ko je imetnik avtorskih pravic tretja oseba, in ne organ, ki je zavezanec za posredovanje informacij javnega značaja. Poleg navedenega 2. odstavek 25. člena ZDIJZ pravi, da se reprodukcija zahtevane informacije vendarle dovoli tudi v primerih, ko je imetnik avtorske pravice na njej tretja oseba, vendar gre za okoljske informacije.

Organ se mora v ponovljenem postopu pri sklicevanju na avtorsko delo uvodoma opredeliti do vprašanja, kdo je imetnik materialnih avtorskih pravic na dokumentih, ki so predmet zahteve prosilca, pri tem pa IP opozarja, da zgolj dejstvo, da dokument predstavlja avtorsko delo, ne zadostuje za zavrnitev posredovanja.

- Test interesa javnosti (2. odstavek 6. člena ZDIJZ)

Test interesa javnosti je urejen v 2. odstavku 6. člena ZDIJZ, ki določa, da se ne glede na določbe 1. odstavka istega člena, dostop do zahtevane informacije dovoli, če je javni interes glede razkritja močnejši od javnega interesa ali interesa drugih oseb za omejitev dostopa do zahtevane informacije, razen v določenih primerih, ki so v zakonu tudi jasno določeni. Organ v ničemer ni pojasnil svoje odločitve, zakaj je zavzel stališče, da zahtevani dokumenti oz. podatki, vsebovani v zahtevanih dokumentih niso podatki, ki bi bili v javnem interesu, ampak je le pavšalno navedel, da prosilec ni izkazal, da bi bilo razkritje zahtevnih dokumentov v javnem interesu.

Bistvo presoje interesa javnosti je v možnosti relativizacije določene izjeme, ki mora biti omejena zgolj na tiste primere, ko je interes javnosti za razkritje določene izjeme močnejši od interesa, zaradi katerega je določena informacija zavarovana kot izjema. Pri uporabi testa prevladujočega interesa javnosti je treba presoditi tudi, ali je interes javnosti za razkritje informacije javnega značaja lahko močnejši od potencialno storjene škode, ki bi nastala z razkritjem informacije. V teoriji se poudarja, da ga je treba uporabljati z veliko mero previdnosti in skrbnosti, saj test interesa javnosti zahteva bistveno večjo kakovost odločanja v obliki tehtanja posameznih nasprotnojučih si pravic oz. interesov. Test interesa javnosti zato pomeni izjemo od izjem, ki se mora uporabljati zelo premišljeno in zgolj takrat, ko bi s pomočjo tega testa odkrili nekaj, kar bi pripomoglo k širši razpravi in razumevanju nečesa pomembnega za širšo javnost. Javni interes za razkritje je na npr. močan v situacijah, ki se navezujejo na pridobivanje ali porabo javnih sredstev, javno varnost, javno zdravje, odgovornost in transparentnost odločanja, ki sprožijo javno ali parlamentarno razpravo, ipd.. Pojem interesa javnosti tako ni v vsaki zadevi enak ali vnaprej definiran, temveč se lahko kaže v različnih pojavnih oblikah. Prav tako se lahko javni interes s časom spreminja, saj je odvisen od številnih dejanskih okoliščin. Zasnova javnega interesa torej ni konstantna, ampak spremenljiva in odvisna od trenutnega dejanskega stanja. S tem pa je pri izvajanju testa javnega interesa omogočena presoja od primera do primera, ki upošteva različne in prav tako spremenljive dejavnike, ki tvorijo javni interes za razkritje. Pri tem IP izpostavlja še stališče sodne prakse, iz katere izhaja, da bi bil javni interes glede razkritja podan, »če bi bile ogrožene take vrednote kot je npr. življenje, zdravje ali varnost ljudi in podobno«. <sup>3</sup> Interes javnosti kot splošen interes, ki ne služi samo interesom ozke skupine oseb, je torej opredeljen kot nekaj, kar bi koristilo javnemu vedenju in s tem omogočilo nadzor in sodelovanje javnosti pri oblikovanju tistih tematik, nad katerimi bi morala ta bdeti z vso skrbnostjo.

Pri testu javnega interesa gre tako za tehtanje, pri katerem je potrebno presoditi, kdaj prevlada pravica javnosti vedeti nad kakšno drugo pravico oz. izjemo iz določb ZDIJZ in s tem ugotoviti, ali bo v konkretnem primeru javnemu interesu bolj zadoščeno z razkritjem ali z nerazkritjem informacije.

<sup>3</sup> Npr. sodbi Upravnega sodišča št. I U 1488/2011-95 in št. I U 199272010-28.

IP pripominja, da je že odločal o vsebinsko podobni zadevi, in sicer o dostopu do dokumentacije, ki se je nanašala na pridobitve in podaljšanja dovoljenja za promet z določenimi cepivi, pri čemer je IP presojal tudi javni interes za razkritje zahtevanih informacij ter ugotovil, da je podan velik javni interes, da se cepjenja s predmetnimi cepivi izvajajo, v smislu varovanja javnega zdravja in preprečevanja nalezljivih bolezni, in da ne gre zgolj za vprašanje poslovne skrivnosti.<sup>4</sup>

- Poraba javnih sredstev (3. odstavek 6. člena ZDIJZ)

Skladno z določbo 3. odstavka 6. člena ZDIJZ, se, ne glede na morebiten obstoj izjeme iz 1. odstavka tega člena (torej tudi obstoj poslovne skrivnosti), dostop do zahtevanih informacij javnega značaja dovoli, če gre za podatke o porabi javnih sredstev ali podatke, povezane z opravljanjem javne funkcije ali delovnega razmerja javnega uslužbenca, razen v primerih iz 1. in 5. do 8. točke prvega odstavka ter v primerih, ko zakon, ki ureja javne finance ali zakon, ki ureja javna naročila, določata drugače.

Iz navedenega jasno izhaja, da je že zakonodajalec pretehtal, da javni interes za razkritje podatkov pretehta vselej (tudi npr. ne glede na morebitno izjemo poslovne skrivnosti) kadar gre za podatke, ki predstavljajo podatke o porabi javnih sredstev.

➤ K 2. točki izreka (10., 11., 12., 13., 14., 15., 16., 18. (18.1. - 18.4.), 19. (19.1., - 19.9.), 20. (20.1., 20.3.) točka zahteve prosilca)

IP pojasnjuje, da so organi dolžni omogočiti prosilcem dostop le do že obstoječih informacij ter niso dolžni ustvarjati novih dokumentov, zbirati informacij, opravljati raziskav ali analizirati podatkov, da bi zadostili zahtevi prosilca. IP dodaja, da iz samega ZUP, Uredbe o upravnem poslovanju ter načela prijazne in odprte javne uprave, sicer izhaja obveznost organov, da odgovorijo na vsako vlogo stranke, torej, da po svojih najboljših močeh, predvsem pa upoštevajoč svojo (predvsem stvarno) pristojnost, pomagajo prosilcu, da pride do želenih podatkov. Vendar pa IP opozarja, da ZDIJZ ne predstavlja instrumenta za zagotavljanje informiranosti prosilcev izven dometa samega zakona, ki konkretizira pravico pridobivanja že ustvarjenih dokumentov, s katerimi organ tudi dejansko razpolaga.

Skladno s 4. členom ZDIJZ informacijo javnega značaja predstavlja samo dokument, ki že obstaja v neki materialni obliki, oz. tisti dokument, ki ga je organ v okviru svojega delovnega področja že izdelal oz. pridobil in ga ni dolžan ustvariti šele na podlagi zahteve. Navedeno pomeni, da na primer vloga, s katero se zahteva, da organ odgovori na vprašanja oz. pripravi pojasnilo, obrazložitev ipd. ne predstavlja zahteve za dostop do informacij javnega značaja. IP pojasnjuje, da ZDIJZ, ki omogoča pritožbo k IP, ne omogoča oz. predvideva pravice do odgovorov in pojasnil ter podobnega. Takšno stališče izhaja tudi iz sodbe Upravnega sodišča RS, št. I U 1351/2010-12 z dne 25. 5. 2011. Prosilec ima namreč po ZDIJZ pravico zahtevati dokumente, s katerimi organi zavezanci že razpolagajo, ne prosilci ne IP pa nimajo po tem zakonu nikakršnega vzvoda, s katerim bi prisilili organ, da posebej na zahtevo prosilca ustvari določen dokument (npr. pripravi odgovore na vprašanja, poda pojasnilo, obrazložitev ipd.).

Iz zahteve prosilca jasno izhaja, da želi pridobiti določena pojasnila, obrazložitve in odgovore v zvezi s potekom testiranja oz. rezultati testiranja na Covid-19, pri čemer IP pri reševanju pritožbe ni posumil, da organ razpolaga ali bi lahko razpolagal z dokumenti, iz katerih bi izhajali odgovori na zastavljena vprašanja, pojasnil in obrazložitev v zvezi s konkretnimi vprašanji, niti odgovorov z da/ne na določeno zastavljeno vprašanje, pa organ, na podlagi določb ZDIJZ, prosilcu ni dolžan posredovati, na kar je večkrat pravilno opozoril tudi organ v izpodbijani odločbi in v odgovoru na poziv IP. **IP tako ne vidi utemeljenega razloga, da ne bi verjel organu, da z dokumenti, iz katerih bi izhajali odgovori na vprašanja prosilca, ne razpolaga, še zlasti, ker se vprašanja prosilca v določenem delu niti ne nanašajo na delovno področje organa, ki je podrobneje opredeljeno v 23.c členu ZZDej. Oprijemljivih dejstev, ki bi nakazovali na to, da organ z dokumenti razpolaga, ni navedel niti prosilec.** V tem delu IP še dodaja, da tudi sama odmevnost tematike in pisanje različnih medijev/strokovnjakov o tej temi še ne pomeni, da bi organ s temi informacijami tudi nedvomno moral razpolagati.

Glede pritožbenih navedbe prosilca, da splošno napotilo organa na svetovni splet, kjer so objavljeni različni tuji članki, iz katerih lahko prosilec pridobi zahteve informacije (npr. opisujejo gojenje virusa SARS-Cov-2 na celičnih kulturah), ni informacija v skladu z določbami ZDIJZ, pa IP pojasnjuje, da organ na podlagi določb ZDIJZ ni dolžan po svetovnem spletu iskati različne tuje članke ter ugotavljati/presojsati, iz katerih člankov bi

<sup>4</sup> odločba št. 090-136/2013/59 z dne 18. 11. 2019 po sodbi Upravnega sodišča RS IU 1520/2016-80.

lahko izhajale informacije, na katere se nanaša zahteva prosilca in posledično prosilcu posredovati povezave na te članke.

Upošteva se navedeno je IP pritožbo prosilca v tem delu, na podlagi 1. odstavka 248. člena ZUP, kot neutemeljeno zavrnili, kot izhaja iz 2. točke izreka te odločbe.

Na trditve organa, da ob znani epidemiološki situaciji priprava strokovnih pojasnil in odgovorov na vprašanja za posamezne državljane dodatno obremenjuje vrhunski strokovni kader organa, ki mora biti na razpolago za izvajanje zakonsko opredeljenih nalog, IP odgovarja, da za kakršno koli privilegirano obravnavo konkretnega organa, ne glede na epidemiološko situacijo v državi, nima zakonske podlage. Upravno poslovanje organa v času vložitve zahteve in do izdaje izpodbijane odločbe ni bilo ustavljeno ali prekinjeno, niti v tem času noben pravni akt ni določil kakršnihkoli ukrepov v zvezi z upravnimi oz. javnopravnimi zadevami – kamor sodi odločanje po ZDIJZ – ki bi omogočali posebno obravnavo.

Glede navedb organa, da prosilec ni podal motiva oz. utemeljitve zahteve po pridobitvi zahtevanih informacij, pa IP pojasnjuje, da se, v skladu z načelom prostega dostopa iz 5. člena ZDIJZ, za dostop do informacij javnega značaja pravni interes ne zahteva. V postopku dostopa do informacij javnega značaja tako prosilčev interes in pravne koristi niso relevantni. ZDIJZ namreč določa možnost vsakogar, da zahteva informacije, ki predstavljajo informacije javnega značaja, obenem pa ne pozna nobene »privilegirane« kategorije prosilcev. V kolikor gre pri določeni informaciji za prosto dostopno informacijo javnega značaja, je ta dostopna vsem, ne glede na njihov izkazan pravni interes. IP je v skladu z ZDIJZ dolžan vsebinsko presoditi le, ali zahtevana informacija izpolnjuje merila za informacijo javnega značaja in ali je zaradi tega prosto dostopna vsem, lat. *erga omnes*, ne le prosilcu. Pravni interes posameznika tako v postopku po ZDIJZ ni relevanten in ne vpliva na odločitev organa.

#### Sklepno

Na podlagi ugotovljenega v pritožbenem postopku je IP pritožbi prosilca delno ugodil in izpodbijano odločbo, v delu, ki se nanaša na 17. in 20.2. točko zahteve prosilca, v skladu s 1. in 3. odstavkom 251. člena ZUP, odpravil ter zadevo vrnil organu v ponovno odločanje. V delu zahteve, ki se nanaša na 10., 11., 12., 13., 14., 15., 16., 18. (18.1. - 18.4.), 19. (19.1., - 19.9.), 20. (20.1., 20.3.) točko zahteve prosilca, pa je IP, na podlagi 1. odstavka 248. člena ZUP, pritožbo prosilca kot neutemeljeno zavrnili.

Posebni stroški v tem postopku niso nastali. Ta odločba je v skladu s 30. točko 28. člena Zakona o upravnih takсах (Ur. l. RS, št. 106/10 – ZUT-UPB5 in 14/15 – ZUUJFO) oproščena plačila upravne takse.

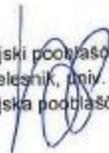
#### Pouk o pravnem sredstvu:

Zoper 1. točko izreka te odločbe ni dovoljena pritožba, niti upravni spor. Zoper 2. in 3. točko izreka te odločbe lahko prosilec sproži upravni spor. Upravni spor se sproži s tožbo, ki se vložijo v 30 dneh od vročitve te odločbe na Upravno sodišče, Fajfarjeva 33, Ljubljana. Tožba se lahko vložijo pisno po pošti ali pri navedenem sodišču. Če se tožba pošlje priporočeno po pošti, se za dan izročitve sodišču šteje dan oddaje na pošto. Tožba z morebitnimi prilogami se vložijo v najmanj treh izvodih. Tožbi je treba priložiti tudi to odločbo v izvorniku ali prepisu.

Postopek vodila:  
Tanja Švab, dipl. upr. ved.,  
raziskovalka IP



Informacijski pooblaščenec:  
Mojca Prelesnik, dipl. prav.,  
informacijska pooblaščenka



#### Vročiti:

- Organ: Nacionalni laboratorij za zdravje, okolje in hrano, Prvomajska ulica 1, 2000 Maribor – z vročilnico;
- Prosilec: [REDACTED]

#### Vložiti:

- zbirka dokumentarnega gradiva pri IP.

**ENGLISH TRANSLATIONS (AS PROVIDED BY THE FOI SUBMITTER)  
OF NLZOH'S FINAL RESPONSE TO SELECT QUESTIONS**

Point 10: We do not have information as you asked, because we do not prove existence of viable virus with growing methods, but we prove in samples presence of nucleic acid, this is physical part of the virus.

Point 11: We do not have information as you asked, because we do not prove existence of viable virus with growing methods. Physical presence of virus in cell cultures and animal models is attested in many articles on line for free are pay

Point 12: We do not have information as you asked, because we do not prove existence of viable virus with growing methods. Virus SARS-CoV-2, which was isolated in cell culture by IMI is deposited and registered in European archive for viruses EVAg, available at <https://www.european-virus-archive.com/virus/sars-cov-2-strain-sloveniasi-426520-d614g>

Then on page 5 of this document:

Today for proving viruses (SARS-CoV-2 or other viruses) we mostly use molecular techniques where we prove presence of nucleic acid, this is genome of the virus in the sample. For this procedure we do not need viable (live) virus, that is why we inactivate the sample at the beginning, so the procedure is safe for technician. The most used molecular method today is PCR. Depending on the machine and used methods it takes about 1 to 4 hours. When we want to prove existence of viable virus (virus which is able to infect next cell), we put sample on appropriate cell culture with appropriate medium. We then observe for several days under a microscope whether a cytopathogenic effect has occurred, which tells us that the virus is spreading in the cells.

This is then further proven by other techniques (such as immunofluorescence). Because we work with a viable virus and the SARS-CoV-2 is well transmitted and can cause serious illness, such work is prescribed to be performed only in a laboratory with a biosafety level of III. The procedure takes about four to eight days and is not performed for diagnostic purposes because the investigation would take too long. Rapid action is needed to prevent the spread of the infectious disease, so the cultivation methods for the detection of viable virus for diagnostic purposes, which are the subject of the complainant, are not performed by us, and therefore we do not have the required documentation



Številka: ZDIJZ-2021-20  
Izhodna številka dokumenta: 045-0020/2021/0002

Ljubljana, 9. 7. 2021

### SKLEP

Univerzitetni klinični center Ljubljana (v nadaljevanju organ) po v. d. generalnega direktorja, Jožetu Golobiču, na podlagi drugega odstavka 22. člena Zakona o dostopu do informacij javnega značaja (Uradni list RS, št. 51/06 - uradno prečiščeno besedilo, 117/06 - ZDavP-2, 23/14, 50/14, 72/14 - skl. US, 19/15 - odl. US in 7/18; v nadaljevanju: ZDIJZ) v zvezi z zahtevo prosilca gospoda [redacted]

### ODLOČBO

Zahtevi gospoda [redacted] za dostop do informacije javnega značaja, vloženi dne 14. 6. 2021 se delno ugotovi tako, da se mu posreduje naslednje informacije:

K vprašanju pod zaporedno številko 1 se posreduje povezavo:  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7095418/>

K vprašanju pod zaporedno številko 2 se posreduje povezavo:  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7095418/>  
in pojasnilo: genetski zapis SARS-CoV-2 je soroden drugim koronavirusom in je škodljiv.

K vprašanju pod zaporedno številko 3 se posreduje povezavo:  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7184405/pdf/ciaa325.pdf>  
In pojasnilo; podajamo referenco, iz katere je razvidno, da SARS-CoV-2 izpolnjuje Kochove postulate. Vlagatelju ob tem pojasnjujemo, da je Koch s svojim sodelavcem Henlejem postulate objavil, precej preden so bili odkriti virusi. Kasneje so, predvsem v luči spoznanj virologije, Kochovi postulati bili prilagojeni novim odkritjem. Ne vemo sicer, kaj vlagatelj pojmuje pod pojmom "papir", domnevamo, da gre za neposrečen prevod angleškega izraza "paper", ki v tem primeru pomeni članek.

K vprašanju pod zaporedno številko 4 se posreduje povezavo:  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7184405/pdf/ciaa325.pdf>

K vprašanju pod zaporedno številko 5 se posreduje napolilo na:  
<https://pubmed.ncbi.nlm.nih.gov/12748632/>  
elektronski vir: Nature 2003 May 15;423(6937):240.



K vprašanju pod zaporedno številko 6 se posreduje povezavo:  
[10.1016/0035-9203\(52\)90043-6.](https://www.eurosurveillance.org/10.1016/0035-9203(52)90043-6)

K vprašanju pod zaporedno številko 7 se posreduje povezavo:

<https://www.eurosurveillance.org/docserver/fulltext/eurosurveillance/25/3/eurosurv-25-3-5.pdf?expires=1624872204&id=id&accname=guest&checksum=8D3EF216634EF95158095FEABA7CCA1C>

In pojasnilo: Corman et.al (2020) mejo med pozitivnim in negativnim rezultatom ne podajo s CT vrednostjo, temveč na osnovi limite detekcije (slika 3), ki predstavlja najnižjo količino/koncentracijo analita (v tem primeru kopije virusne dednine) v vzorcu, ki jo je mogoče detektirati (za E gen in RdRp gen so ugotovili limite 5.2 oz 3.8 kopij virusne dednine na reakcijo).

K vprašanju pod zaporedno številko 8 se posreduje povezavo:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/926410/Understanding\\_Cycle\\_Threshold\\_Ct\\_in\\_SARS-CoV-2\\_RT-PCR.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/926410/Understanding_Cycle_Threshold_Ct_in_SARS-CoV-2_RT-PCR.pdf)

in pojasnilo: v primeru, da je za RT-PCR po validaciji ugotovljeno, da je test negativen nad 39CT, za takšen zaključek ni potrebno testa izvajati do 45CT.

K vprašanju pod zaporedno številko 10 se posreduje povezavo:

<https://www.qiagen.com/us/resources/resourcedetail?id=8d610767-ec01-4ec8-afc6-119f9f28fefd&lang=en>

In pojasnilo: meja ni arbitrarna, temveč je določena glede na podatke validacije testa RT-PCR. ter internih validacijskih analiz posameznega laboratorija.

K vprašanju pod zaporedno številko 11 in 14 se posreduje napotilo na:

Specifičnost vezave začetnih oligonukleotidov v članku Corman et.al. (2020) avtorji pojasnijo sami v odstavku: "Specificity testing".

K vprašanju pod zaporedno številko 12 se posreduje napotilo na:

pojasnila avtorjev študije Corman et.al. (2020), ki so sekvence pridobili v skladu s prakso iz javno dostopnih baz: "We downloaded all complete and partial (if > 400 nt) SARS-related virus sequences available in GenBank by 1 January 2020. The list (n = 729 entries) was manually checked and artificial sequences (laboratory-derived, synthetic, etc), as well as sequence duplicates were removed, resulting in a final list of 375 sequences. These sequences were aligned and the alignment was used for assay design (Supplementary Figure S1). Upon release of the first 2019-nCoV sequence at [virological.org](http://virological.org), three assays were selected based on how well they matched to the 2019-nCoV genome (Figure 1). The alignment was complemented by additional sequences released independently on GISAID (<https://www.gisaid.org>), confirming the good matching of selected primers to all sequences. Alignments of primer binding domains with 2019-nCoV, SARS-CoV as well as selected bat-associated SARS-related CoV are shown in Figure 2."

K vprašanju pod zaporedno številko 13 se posreduje povezavo:

<https://www.qiagen.com/us/resources/resourcedetail?id=8d610767-ec01-4ec8-afc6-119f9f28fefd&lang=en>

K vprašanju pod zaporedno številko 15 se posreduje povezavo na:

European Commission. (2020) Current performance of COVID-19 test methods and devices and proposed performance criteria. 16 April 2020. <https://ec.europa.eu/docsroom/documents/40805>

p.5: "The RNA contained in this virus is generally detectable in respiratory specimens during the early and acute phases of infection. Whilst positive results are indicative of the presence of SARS-CoV-2 RNA, a clinical correlation with the patient history and other diagnostic information is necessary to determine the infection status of the patient."



K vprašanju pod zaporedno številko 16 se posreduje pojasnilo:  
Z RT-PCR metodo se ugotavlja prisotnost/odsotnost virusne dednine.

K vprašanju pod zaporedno številko 17 se posreduje povezavo na:  
<https://www.qiagen.com/us/resources/resourcedetail?id=8d610767-ec01-4ec8-afc6-119f9f28fedf&lang=en>  
In napotilo na: specifičnost vezave začetnih oligonukleotidov na "sorodne koronavirusne" v članku Corman et al. (2020) avtorji pojasnijo v odstavku: "Cross-reactivity with other coronaviruses".

K vprašanju pod zaporedno številko 18 se posreduje pojasnilo, da lahko RT-PCR najde viralne delce iz preteklih okužb.

K vprašanju pod zaporedno številko 19 se posreduje pojasnilo, da je lahko vzorec pri 40Ct pozitiven in potem negativen, če bi mejo med pozitivnim in negativnim spustili na 25Ct.

K vprašanju pod zaporedno številko 20 se posreduje povezave na:  
[Efficacy of masks and face coverings in controlling outward aerosol particle emission from expiratory activities | Scientific Reports \(nature.com\)](#)  
[Effectiveness of Mask Wearing to Control Community Spread of SARS-CoV-2 | Infectious Diseases | JAMA | JAMA Network](#)  
[Social interaction context shapes emotion recognition through body language, not facial expressions. - PsysNET \(apa.org\)](#)  
[Children's emotion inferences from masked faces: Implications for social interactions during COVID-19 \(nih.gov\)](#)  
[COVID-19 and re-opening of schools: Opinions with scientific evidence \(nih.gov\)](#)  
[Comprehensive and safe school strategy during COVID-19 pandemic \(nih.gov\)](#)  
[Verwendung von Masken bei Kindern zur Verhinderung der Infektion mit SARS-CoV-2 \(nih.gov\)](#)  
[To mask or not to mask children to overcome COVID-19 \(nih.gov\)](#)  
[An evidence review of face masks against COVID-19 | PNAS](#)  
[Mask-wearing and control of SARS-CoV-2 transmission in the USA: a cross-sectional stu](#)

K vprašanju pod zaporedno številko 22 posreduje napotilo na:  
MSphere 2021 May 19;6(3):e00019-21. doi: 10.1128/mSphere.00019-21

K vprašanju pod zaporedno številko 25 se posreduje pojasnilo, da so bili ljudje v letu 2020, ki so umrli v naši ustanovi zaradi virusa večinoma starejši, nad 65 let.

K vprašanju pod zaporedno številko 27 se posreduje povezavo na:  
<https://www.cdc.gov/vaccines/covid-19/downloads/Information-for-laboratories-COVID-vaccine-breakthrough-case-investigation.pdf>

K vprašanju pod zaporedno številko 29 se posreduje Letna poročila UKC Ljubljana iz katerih bodo razvidni zeleni podatki.

K vprašanju pod zaporedno številko 30 se posreduje pojasnilo, da pacientov, ki bi potrebovali nujno oskrbo, nismo zavračali, obravnavani so bili glede na epidemiološko anamnezo. Elektivni pacienti, ki niso izpolnjevali zahtevanih pogojev, pa so lahko po presoji zdravnika tudi odloženi.

K vprašanju pod zaporedno številko 31 posreduje povezavi:  
<https://c19ivermectin.com/>  
<https://c19hcq.com/>



Zahteva za dostop do informacije javnega značaja, vložena dne 14. 2. 2021, se v preostalem delu zavrne.

Posebni stroški v tem postopku niso nastali.

#### Obrazložitev:

Organ je dne 14. 6. 2021 prejel zahtevo gospoda [redacted] v nadaljevanju: prosilec) za dostop do informacij javnega značaja.

V njej prosilec zahteva vso relevantno dokumentacijo in odgovore na sledeča vprašanja:

1. Vlagatelj želi usmeritev na papir in/ali študije na katere se vaša ustanova naslanja pri dokazovanju fizičnega obstoja virusa SARS-CoV-2 in njegovo patogenost?
2. Ali so se v primeru, da se vaše delo o izolaciji in patogenosti virusa, naslanja na gojenju virusov v celični kulturi, opravili potrebni kontrolni eksperimenti, ter bi vlagatelj želel, da se mu posreduje link do teh podatkov:

- **da se izloči** možnost, da ta sekvenčna struktura, i.e. genetski sev, ki je pripisan temu virusu, ne izvira iz drugega genetskega materiala in da je neškodljiv?

- **da se izloči**, da eksperimentalna priprava, i.e. okužba celične kulture (e.g. VeroE6), s katero se je obdelala celična kultura, ni razlog za citopatični efekt, ki bi se tako pomotoma pripisal virusu?

3. Se lahko vlagatelja, točno napoti do papirja in/ali študije slovenskega, evropskega ali svetovnega laboratorija, ki je dokazal fizični obstoj virusa tudi po Kochovih postulatih?

*Slovenski medicinski slovar za Kochove postulate določa, da se sme nekemu mikrobu, med katere sodijo tudi virusi, priznati vzročnost pri določeni bolezni samo, kadar so izpolnjeni naslednji pogoji: (i) mikrob moramo najti pri vsakem primeru bolezni, ne pa tudi pri zdravih osebah, (ii) treba ga je osamiti od bolnika v čisti kulturi, (iii) treba ga je vcepiti zdravim občutljivim živalim, pri katerih mora povzročiti isto bolezen, in (iv) isti mikrob moramo znova osamiti iz okuženih živali.*

4. Ali vaša ustanova razpolaga s papirjem in/ali študijo slovenskega, evropskega ali svetovnega laboratorija, ki je dokazal fizični obstoj virusa in njegovo patogenost na naslednji način:

- se je vzel vzorec (krí, slina, pljučna tekočina) iz okužene osebe, ki se je očistil do te mere, da nam ostanejo samo čisti viralni delci in ničesar drugega,  
- se vizualizira vzorec pod mikroskopom in slika,  
- karakterizira njegova unikatna biokemična struktura,  
- se pridobi celotna sekvenca genoma,  
- se določi iz katerih beljakovin je sestavljen,  
- ter se očiščen virus vstavi v eksperimentalno telo živali ali človeka, ki je nato povzročil bolezen in njej pripadajoče simptome

5. Se lahko vlagatelja natančno napoti do papirjev in/ali študij slovenskega, evropskega ali svetovnega laboratorija, ki je dokazal fizični obstoj virusov iz družine koronavirusov (229E, OC43, SARS-CoV-2003, NL63, HKU1, MERS-CoV) po Kochovih postulatih ali na način opisan pod zaporedno številko 4?

6. Se lahko vlagatelj točno napoti do papirjev in/ali študij slovenskega, evropskega ali svetovnega laboratorija, ki je dokazal fizični obstoj virusa **Ebola, Zika, H1N1** ali **HIV** po Kochovih postulata ali na način opisan pod zaporedno številko 4?
7. Pri katerem ciklu pomnoževanje je Corman-Drosten protokol določil mejo med pozitivnim in negativnim vzorcem?
8. Zakaj se je v Sloveniji uporabljalo 40 ciklov pomnoževanje, ko pa Corman-Drosten protokol navaja 45 Ct?
9. Zakaj se je v Sloveniji v letu 2020 uporabljalo 40Ct, namesto priporočenih 25Ct?
10. Na podlagi katerih znanstvenih dokazov se lahko uporablja test za diagnostiko okuženosti, ki ni binaren (kot test za nosečnost), temveč je arbitraren, kar pomeni, da lahko vsak laboratorij oz država postavi svojo mejo Ct, ki loči med pozitivnim ali negativnim vzorcem?
11. Ali obstaja možnost, da se iniciatorji in geni uporabljeni v Corman-Drosten protokolu, vežejo na sekvence človeškega genoma in mikrobov? V primeru da ne, bi vlagatelj referenco ali link do teh podatkov, ki to dokazujejo.
12. Se lahko vlagatelj usmeri na dokumente, ki pojasnijo, kako je dr. Christian Drosten v protokolu določil sekvence obeh oligonukleotidov, ter E, N in RdRP genov, ki naj bi bili specifični za SARS-CoV-2, če priznava v svojem papirju, da ni imel na voljo izoliranega referenčnega vzorca virusa?

***"We aimed to develop and deploy robust diagnostic methodology for use in public health laboratory settings without having virus material available."* [1]**

13. Se lahko vlagatelj usmeri na papir (validacija testa), kjer je razvidno, da je RT-PCR test občutljiv, specifičen in reproduktiven samo na viralne RNA sekvence virusa?
14. Ali obstaja možnost, da se iniciatorji in geni uporabljeni v Corman-Drosten protokolu, vežejo na sekvence človeškega genoma in mikrobov? V primeru da ne, bi vlagatelj referenco ali link do teh podatkov, ki to dokazujejo.
15. Ali lahko RT-PCR test loči med aktivnim in neaktivnim virusom? V primeru, da lahko, bi vlagatelj link do teh podatkov.
16. Ali lahko RT-PCR test ugotovi, da je viralna RNA sekvenca patogena? V primeru, da lahko, bi vlagatelj link do teh podatkov.
17. Ali lahko RT-PCR test ugotovi sorodne koronavirus? V primeru, da ne more, bi vlagatelj link do teh podatkov.
18. Ali lahko RT-PCR najde viralne delce iz preteklih okužb? Če ne more, bi vlagatelj link do teh podatkov, ki to potrjujejo.
19. Je lahko vzorec pri 40Ct pozitiven in potem negativen, če bi mejo med pozitivnim in negativnim spustili na 25Ct?
20. Se lahko vlagatelju napoti do RCT študij in ne priporočil, ki brez dvoma dokazujejo, da nošenje mask zaustavi širjenje virusov?

21. Vlagatelj želi tudi reference do RCT varnostnih študij izven kontroliranih območij (zdravstvene ustanove, laboratoriji itd), da nošenje mask v vsakdanjem življenju ne škoduje zdravju?
22. Se lahko vlagatelja napoti do RCT študij in ne računalniških modelov, ki brez dvoma dokazujejo, da zdravi ljudje lahko širijo virus?
23. Koliko ljudi je v vaši ustanovi umrlo v letu 2020, ki so imeli samo pozitivne RT-PCR test in bili brez vsake živlensko nevarne pridružene bolezni?
24. Koliko ljudi je v vaši ustanovi umrlo v letu 2020, ki so bili poslani iz DSO-jev in koliko ostalih?
25. Koliko je bila povprečna starost ljudi v letu 2020, ki so umrli v vaši ustanovi zaradi virusa?
26. Koliko ljudi v letu 2021 je bilo pozitivnih na RT-PCR testu ob prihodu v vašo ustanovo, kljub temu, da so že prejeli priporočene odmerke cepiva?
27. Zakaj se zdaj za »cepljene« ljudi priporoča izvajanje RT-PCR testov pri 28 Ct ali pa sploh ne, ko za vse druge velja, da se izvaja RT-PCR test med 40Ct? Zakaj dvojna merila, ki s tem ustvarjajo velik sum in dokazuje, da se lahko manipulira število okuženih s številom pomnožitev pri RT-PCR testih?

<https://www.cdc.gov/vaccines/covid-19/downloads/Information-for-laboratories-COVID-vaccine-breakthrough-case-investigation.pdf>

28. Koliko ljudi ste v letu 2021 zdravili ali so umrli zaradi stranskih učinkov cepiv za C-19?
29. Se lahko vlagatelju pošlje dokumentacija zasedenosti vseh vaših bolnišničnih postelj za leto 2017, 2018, 2019 in 2020?
30. Ali se bo izvedla zdravstvena storitev zdravemu pacientu, ki bi prišel v vašo ustanovo zaradi zloma noge in ne želi, da se ga kakorkoli testira?
31. Zakaj se v vaši ustanovi ne ponuja drugih varnih in učinkovitih terapij, kot je HQC in Ivermectin, ter se samo ponuja popolnoma eksperimentalno injekcijo genske terapije, kot edini način zdravljenja C19 bolezni?  
<https://c19ivermectin.com/>  
<https://c19hcq.com/>

Prvenstveno je organ v skladu s prvim odstavkom 4. člena ZDIJZ presojal ali zahtevane informacije ustrezajo zakonski opredelitvi informacije javnega značaja in ali organ razpolaga z zahtevanimi informacijami. Po prvem odstavku 4. člena ZDIJZ je informacija javnega značaja informacija, ki izvira iz delovnega področja organa, nahaja pa se v obliki dokumenta, zadeve, dosjeja, registra, evidence ali drugega dokumentarnega gradiva (v nadaljevanju: dokument), ki ga je organ izdelal sam, v sodelovanju z drugim organom ali pridobil od drugih oseb. Iz navedene določbe izhajajo trije osnovni pogoji, ki morajo biti kumulativno izpolnjeni, da lahko govorimo o obstoju informacije javnega značaja, in sicer:

1. informacija mora izvirati iz delovnega področja organa,
2. organ mora z njo razpolagati in
3. nahajati se mora v materializirani obliki.

Upoštevajoč navedeno informacijo javnega značaja predstavlja dokument, ki že obstaja, je ustvarjen oziroma tisti dokument, ki ga je organ v okviru svojega delovnega področja že izdelal oziroma pridobil in ga ni dolžan ustvariti šele na podlagi zahteve.



Organ pojasnjuje, da je kot zavezanec po ZDIJZ prosilcu dolžan omogočiti dostop le do že obstoječih (materializiranih) informacij in ni dolžan odgovarjati na vprašanja oziroma podajati pojasnila na način, da bi posebej tvoril stavke, ki bi predstavljali odgovore na vprašanja, niti ni dolžan ustvariti dokumente ali jih pridobivati od drugih subjektov, da bi zadostil zahtevi. Iz odločbe IP, št. 090-277/2020/4 z dne 17.12.2020 izhaja, da na primer vloga, s katero se zahteva, da organ odgovori na vprašanja oz. pripravi pojasnilo, obrazložitev ipd. ne predstavlja zahteve za dostop do informacij javnega značaja. IP v odločbi pojasnjuje, da ZDIJZ ne omogoča oziroma predvideva pravice do odgovorov in pojasnil ter podobnega. Takšno stališče izhaja tudi iz sodbe Upravnega sodišča RS, št. I U 1351/2010-12 z dne 25. 5. 2011. Prosilec ima namreč po ZDIJZ pravico zahtevati dokumente, s katerimi organi zavezanci že razpolagajo, ne more pa prisiliti organa, da posebej na zahtevo prosilca ustvari določen dokument (npr. pripravi odgovore na vprašanja, poda pojasnilo, obrazložitev ipd.)

Organ po preučitvi zahteve ugotavlja, da v zvezi z vprašanji pod zaporednimi števkami 9, 21, 23, 24, 26 ter 28 prosilec od organa zahteva podajo odgovorov in pojasnil, ki ne predstavljajo zahteve za dostop do informacij javnega značaja po 4. členu ZDIJZ. Poleg tega organ z informacijami ne razpolaga v obliki dokumenta, zadeve, dosjeja, registra ali evidence oziroma drugega dokumentarnega gradiva oziroma da se dokumenti, iz katerih bi izhajali odgovori na navedena vprašanja.

Glede na navedeno upoštevajoč dejstvo, da organ ni dolžan ustvariti novih dokumentov oziroma podajati odgovorov in pojasnil, ni izpolnjen pogoj, ki ga za informacijo javnega značaja določa prvi odstavek 4. člena ZDIJZ, zato je potrebno prosilčevo zahtevo upoštevaje določilo 4. člena ZDIJZ v tem delu zavrnil.

Kljub temu je organ za ostala vprašanja pripravil in predložil vire podatkov, povezave na vire podatkov in pri nekaterih kratka pojasnila, kot je razvidno iz izreka te odločbe. V tem delu organ šteje, da je zahtevi delno ugodil.

Organ mora ob izdaji odločbe odločiti tudi o posebnih stroških, ki so nastali v zvezi z odločanjem v upravnem postopku. V predmetnem postopku posebni stroški postopka niso nastali, zato je organ odločil kot izhaja iz 3. točke izreka te odločbe.

#### **POUK O PRAVNEM SREDSTVU:**

Zoper to odločbo je dovoljena pritožba v roku 15 dni od dneva vročitve na Informacijskega pooblaščenca, Zaloška 59, 1000 Ljubljana, in je prosta plačila upravne takse. Pritožba se vloži v pisni (fizični ali elektronski) obliki ali ustno na zapisnik pri organu. Če je pritožba poslana priporočeno po pošti, se šteje, da je pravočasna, če je oddana na pošto zadnji dan pritožbenega roka. O pritožbi odloča Informacijski pooblaščenec.

Vročiti:

- prosilcu
- spis.

Univerzitetni klinični center Ljubljana  
v.d. generalnega direktorja  
Jože Golobič

p. p. št. 100-0012/2020/0007  
Petra Mrhar Slak, univ. dipl. prav.



**Translation provided by FOI submitter**

**QUESTIONS AND THE ANSWERS PROVIDED UKCLJ (UNIVERSITY MEDICAL CENTRE LJUBLJANA), SLOVENIA:**

**1)** The applicant wants a link to the studies that your institution relies on in proving the physical existence of the SARS-CoV-2 virus and its pathogenicity?

**ANSWER :**

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7095418/>

**2)** In the event that your work on virus isolation and its pathogenicity relies on the cultivation of viruses in cell culture, the necessary control experiments have been carried out, and the applicant would like to be provided with a link to this information:

- to rule out the possibility that this sequence structure i.e. the genetic strain attributed to this virus does not originate from other genetic material and is harmless?

- to exclude that experimental preparation, i.e. is the cell culture infection (VeroE6) treated with the cell culture not the reason for the cytopathic effect that would so mistakenly be attributed to the virus?

**ANSWER:**

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7095418/>

The genetic code of SARS-CoV-2 is related to other coronaviruses and is harmful

**3)** Can the applicant be referred exactly to the studies of a Slovenian, European or world laboratory, which proved the physical existence of the virus even according to Koch's postulates?

**ANSWER:**

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7184405/pdf/ciaa325.pdf>

We give a reference which shows that SARS-CoV-2 meets Koch's postulates. We explain to the applicant that Koch and his colleague Henle published the postulates before viruses were discovered. Later, mainly in the light of virology findings, Koch's postulates were adapted to the new discoveries.

**4)** Does your institution have an article or study from a Slovenian, European or world laboratory that has proven its physical existence and pathogenicity in the following way:

- a sample (blood, saliva, lung fluid, etc.) was taken from the infected person, which was cleaned to such an extent that only pure viral particles and nothing else remained
- the sample is visualized under the microscope and the image of the virus is taken
- characterized by its unique biochemical structure
- the entire genome sequence is obtained

-determines which proteins it is composed of  
-and then an isolated and purified sample is inserted into the experimental body of the animal or human who then caused the disease and its associated symptoms

**ANSWER:** <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7184405/pdf/ciaa325.pdf>

5) Can the applicant be referred to the studies of a Slovenian, European or world laboratory that has proven the physical existence of viruses from the coronavirus family (229E, OC43, SARS-CoV-2003, NL63, HKU1, MERS-CoV) according to Koch's postulates or in the manner described under serial number 4?

**ANSWER:**  
<https://pubmed.ncbi.nlm.nih.gov/12748632/>

6) Can the applicant be specifically referred to the studies of a Slovenian, European or world laboratory that has proven the physical existence of Ebola, Zika, H1N1 or HIV viruses according to Koch's postulates or in the manner described under serial number 4?

**ANSWER:**  
DOI: [10.1016/0035-9203\(52\)90043-6](https://doi.org/10.1016/0035-9203(52)90043-6)  
<https://pubmed.ncbi.nlm.nih.gov/12995441/>  
<https://academic.oup.com/trstmh/article-abstract/46/5/521/1896900?redirectedFrom=fulltext>

7) By which multiplication cycle did the Corman-Drosten protocol define the boundary between the positive and negative sample?

**ANSWER:**  
<https://www.eurosurveillance.org/content/10.2807/1560-7917.ES.2020.25.3.2000045>

Explanation: Corman et al (2020) does not specify the boundary between a positive and a negative sample with a Ct value, but on the basis of a detection limit (Figure 3) representing the lowest amount / concentration of analyte (in this case a copy of viral inheritance) can be detected (limits of 5.2 and 3.8 copies of viral inheritance per reaction were found for E gene and RdRP gene, respectively).

8) Why was 40 ct used in Slovenia, if Corman et al states 45 Ct?

**ANSWER:**  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/926410/Understanding\\_Cycle\\_Threshold\\_Ct\\_in\\_SARS-CoV-2\\_RT-PCR\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/926410/Understanding_Cycle_Threshold_Ct_in_SARS-CoV-2_RT-PCR_.pdf)

Explanation: In the event that the RT-PCR is found to be negative above 39Ct after validation, it is not necessary to perform a test up to 45Ct for such completion.

9) Why was 40Ct used in Slovenia instead of the recommended 25 Ct?

**ANSWER:** Refused to answer

**10)** On the basis of which scientific evidence can a test be used to diagnose an infection that is not binary (as a pregnancy test) but arbitrary, which means that each laboratory or country can set its own Ct limit that separates when a sample is positive or negative?

**ANSWER:**

<http://www.giagen.com/us/resources/resourcedetail?id=8d610767-ec01-4ec8-afc6-119f9f28fed&lang=en>

Explanation: The limit is not arbitrary, but is determined on the validation data of the RT-PCR test, and internal validation analyzes of each laboratory

**11)** Is there a possibility that the initiators and genes used in the Corman et al protocol bind to sequences of the human genome and microbes? If not, the applicant wants a reference or link to this data to prove this?

**ANSWER:**

The specificity of the binding of the initial oligonucleotides in the article by Corman et al (2020) is explained by the authors themselves in the paragraph: "Specificity testing"

**12)** Can the applicant be directed to documents that explain how dr. Christian Drosten determined the sequences of both oligonucleotides, and the E, N and RdRP genes that are supposed to be specific for SARS-CoV-2, if he admits in his study that he did not have an isolated reference sample of the virus?

**ANSWER:**

Explanations of the authors of the studies Corman et al (2020), who obtained the sequences in accordance with the practice from publicly available databases.

On the page 2 you have the rest of the answer in english third paragraph from the bottom up

**13)** Can the applicant be referred to a study (test validation) where the RT-PCR test is shown to be sensitive, specific and reproducible only to viral RNA sequences of the virus?

**ANSWER:**

<http://www.giagen.com/us/resources/resourcedetail?id=8d610767-ec01-4ec8-afc6-119f9f28fed&lang=en>

**14)** Almost the same question as under number 11. My mistake. Same answer as under number 11

**15)** Can RT-PCR distinguish between active and inactive virus? In case it can, the applicant wants a link to this information

**ANSWER:**

<https://ec.europa.eu/docsroom/documents/40805>

The remaining answer is in English in the last paragraph on page 2

**16)** Can an RT-PCR test determine that a viral RNA sequence is pathogenic? In case it can, the applicant wants a link to this information

**ANSWER:**

With RT-PCR method we detect the presence/absence of viral inheritance

**17)** Can an RT-PCR test detect related coronaviruses? In case it does not, the applicant wants a link to this data.

**ANSWER:**

<https://www.qiagen.com/us/resources/resourcedetail?id=8d610767-ec01-4ec8-afc6-119f9f28fefed&lang=en>

In reference to: the specificity of the binding of the initial oligonucleotides to "related coronaviruses" in Corma [et.al.](#) (2020) the authors explain in paragraph: "Cross - reactivity with other coronaviruses"

**18)** Can an RT-PCR test find viral particles from past infections? If he cannot, the applicant wants a link to this information

**ANSWER:** RT-PCR test can find viral particles from past infections

**19)** Can a sample at 40Ct be positive and then negative if we lower the boundary between positive and negative to 25 Ct?

**ANSWER:** Yes, it can

**20)** Can the applicant be directed to RCT studies and not recommendations that unequivocally prove that wearing a mask prevents the spread of the virus?

**ANSWER:**

<https://www.nature.com/articles/s41598-020-72798-7>

<https://jamanetwork.com/journals/jama/fullarticle/2776536>

<https://psycnet.apa.org/record/2020-02994-001>

<https://pubmed.ncbi.nlm.nih.gov/33362251/>

<https://pubmed.ncbi.nlm.nih.gov/33362251/>  
<https://pubmed.ncbi.nlm.nih.gov/33422089/>  
<https://link.springer.com/article/10.1007/s00112-020-01090-99m>  
<https://pubmed.ncbi.nlm.nih.gov/32388722/>  
<https://www.pnas.org/content/118/4/e2014564118>  
<https://pubmed.ncbi.nlm.nih.gov/33483277/>

**21)** The applicant also wants references to RCT safety studies outside the controlled areas (medical facilities, laboratories, etc.) that wearing a mask in everyday life is not harmful to health?

**ANSWER:** Refused to answer

**22)** Can an applicant be referred to RTC studies rather than computer models that unequivocally prove that a healthy person can spread the virus?

**ANSWER:**

<https://journals.asm.org/doi/10.1128/mSphere.00019-21>

**23)** How many people died in your institution in 2020 who had only a positive RT-PCR test and were free of any life-threatening associated disease?

**ANSWER:** Refused to answer

**24)** How many people died in your institution in 2020 who were sent from nursing homes and how many others?

**ANSWER:** Refused to answer

**25)** What was the average age of people in 2020 who died in your institution from the virus?

**ANSWER:** the people who died were mostly from the age of 65 onwards

**26)** How many people tested positive for RT-PCR tests in 2021 upon arrival at your facility, even though they had already received the recommended doses of vaccines?

**ANSWER:** Refused to answer

**27)** Why is it now recommended for vaccinated people to perform the RT-PCR test at 28Ct or not at all, when for all others it is considered that the RT-PCR test is performed at 40Ct? Why double standards, which create a lot of suspicion and prove that the number of infected people can be manipulated by the number of aids in the RT-PCR test?

**ANSWER:** [Information-for-laboratories-COVID-vaccine-breakthrough-case-investigation.pdf](#)

**28)** How many people have you treated or died from the side effects of COVID-19 vaccines in 2021?

**ANSWER:** Refused to answer

**29)** Can the applicant be sent the occupancy documentation of all your hospital beds for 2017, 2018, 2019 and 2020?

**ANSWER:** I got the annual report for 2019 and 2020

**30)** Will a medical service be provided to a healthy patient who would come to your facility due to a broken leg and does not want to be tested in any way?

**31)** Why is there no other safe and effective therapies like HQC and Ivermectin offered in your facility, but only a fully experimental gene therapy injection is offered as the only way to treat COVID-19 disease?

**ANSWER:**

<https://c19ivermectin.com/>

<https://c19hcq.com/>

they put my links in this answer

On Wednesday, February 24th, 2021 at 10:15 PM, [REDACTED] <[REDACTED]> wrote:

Dear Health Ministers,

I am writing to you on advice from the Australian Department of Health (the Department) to seek clarification on information requested in a Freedom of Information (FOI) request that was sent to the Department.

The Department's initial response on 24th August 2020 (attached: "Initial FOI 1937 Response"), stated: "To obtain the information you are seeking please direct your request to the various State and territory Departments of Health".

After further correspondence between the FOI author and the Department, a more formal response was given (attached: "FOI 1937"), yet the outcome remained the same.

I am therefore writing to you to on initial advice by the Department of Health to confirm whether you do hold the information requested in the original request to the Department, as shown in attachment "FOI 1937" and pasted again below:

*"All records in the possession, custody or control of The Department of Health describing the isolation of a SARS-COV-2 virus, directly from a sample taken from a diseased patient, where the patient sample was not first combined with any other source of genetic material (i.e. monkey kidney cells aka vero cells; lung cells from a lung cancer patient). Please note that I am using "isolation" in the every-day sense of the word: the act of separating a thing(s) from everything else. I am not requesting records where "isolation of SARS-COV-2" refers instead to:*

- the culturing of something,*
- or the performance of an amplification test (i.e. a PCR test),*
- or the sequencing of something.*

*Please also note that my request is not limited to records that were authored by The Department of Health or that pertain to work done by The Department of Health. My request includes any sort of record, for example (but not limited to) any published peer reviewed study that The Department of Health has downloaded or printed."*

I look forward to your response.

[REDACTED]



Christine Massey <cmssyc@gmail.com>

**Fw: MHW-H21-1039 - letter to [REDACTED]**

Wed, Jul 14, 2021 at 11:59 PM

To: Christine Massey <cmssyc@gmail.com>, "Christine.Massey@protonmail.com" <Christine.Massey@protonmail.com>

Sent with ProtonMail Secure Email.

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

On Wednesday, April 28th, 2021 at 6:23 PM, Health:Minister for Health <ministerforhealth@sa.gov.au> wrote:

Our ref: MHW-H21-1039

Please find attached a letter from the office of the Minister for Health and Wellbeing.

Kind regards

**Office of Hon Stephen Wade MLC  
Minister for Health and Wellbeing**

Level 9, Citi Centre Building, 11 Hindmarsh Square | GPO Box 2555 Adelaide SA 5001

T: (08) 8463 6270 | F: (08) 8463 6277 | E: [ministerforhealth@sa.gov.au](mailto:ministerforhealth@sa.gov.au) | W: [www.sahealth.sa.gov.au](http://www.sahealth.sa.gov.au)

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 Letter to [REDACTED].pdf  
689K

MHW-H21-1039

██████████  
Email: ██████████

Dear ██████████

I refer to your email dated 24 February 2021, seeking access to information under the *Freedom of Information Act 1991* (SA) (the FOI Act) regarding:

"All records in the possession, custody or control of The Department of Health describing the isolation of a SARS-COV-2 virus, directly from a sample taken from a diseased patient, where the patient sample was not first combined with any other source of genetic material (i.e. monkey kidney cells aka vero cells; lung cells from a lung cancer patient). Please note that I am using "isolation" in the every-day sense of the word: the act of separating a thing(s) from everything else. I am not requesting records where "isolation of SARS-COV-2" refers instead to:

- the culturing of something,
- or the performance of an amplification test (i.e. a PCR test),
- or the sequencing of something.

Please also note that my request is not limited to records that were authored by The Department of Health or that pertain to work done by The Department of Health. My request includes any sort of record, for example (but not limited to) any published peer reviewed study that The Department of Health has downloaded or printed."

These documents are not held by this agency. ■

The Office of the Minister for Health and Wellbeing is a separate agency to SA Health under the FOI Act, and is a separate agency for record keeping purposes. I am not able to advise if an agency within SA Health has the documents you are seeking.

However, you may consider making an application under the FOI Act, to SA Pathology.

Please note that there is a \$37.50 FOI application fee that must be paid to the agency that holds the documents at the time you lodge your application. Processing charges may also be applicable. The agency will advise you of these charges once it receives your application and begins processing it.

If you are the holder of a current concession card, or if you can satisfy the agency that the payment of the fee or charge would cause financial hardship, the agency must waive or remit (reduce or refund) the application fee.

Information on how to apply under the FOI Act in South Australia, including direct links to an application document or an online form, can be found at <https://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/about+us/departments+for+health+and+wellbeing/freedom+of+information+department+for+health+and+wellbeing>

Kind regards

Handwritten signature in blue ink, appearing to read 'M. Klass'.

Margaret Klass

**Accredited FOI Officer**

Office of the Minister for Health and Wellbeing

28 April 2021



ДЕРЖАВНА УСТАНОВА  
«ЦЕНТР ГРОМАДСЬКОГО ЗДОРОВ'Я  
МІНІСТЕРСТВА ОХОРОНИ ЗДОРОВ'Я УКРАЇНИ»

вул. Ярославська, 41, м. Київ, 04071, тел. (044) 425-43-54

E-mail: info@phc.org.ua, код ЄДРПОУ 40524109

«15» 03 2021 № 13/216-к/148-к/21  
на № \_\_\_\_\_ від \_\_\_\_\_

extra\_law\_ppg

Державна установа «Центр громадського здоров'я Міністерства охорони здоров'я України» (далі - Центр) розглянула у межах компетенції запит щодо реєстрації в референс-лабораторії вірусологічних досліджень Центру штаму SARS-CoV-2 та інформує про таке.

Центр, відповідно до пункту 1 розділу I Статуту Державної установи «Центр громадського здоров'я Міністерства охорони здоров'я України», затвердженого наказом МОЗ України від 30.06.2020 № 1483, є санітарно-профілактичним закладом охорони здоров'я, головним завданням якого є діяльність у галузі громадського здоров'я, а саме здійснення епідемічного нагляду (спостереження), виконання повноважень щодо захисту населення від інфекційних хвороб та неінфекційних захворювань, лабораторній діяльності, біобезпеки, інфекційної безпеки донорської крові та/або її компонентів у межах, визначених цим Статутом.

У референс-лабораторії вірусологічних досліджень Центру штаму SARS-CoV-2 відсутній, референс-лабораторія вірусологічних досліджень Центру не проводить вірусні дослідження з метою виділення вірусу SARS-CoV-2 на культурі клітин.

Генеральний директор

Роман РОДИНА

On Wednesday, February 24th, 2021 at 10:15 PM, [REDACTED] <[REDACTED]> wrote:

Dear Health Ministers,

I am writing to you on advice from the Australian Department of Health (the Department) to seek clarification on information requested in a Freedom of Information (FOI) request that was sent to the Department.

The Department's initial response on 24th August 2020 (attached: "Initial FOI 1937 Response"), stated: "To obtain the information you are seeking please direct your request to the various State and territory Departments of Health".

After further correspondence between the FOI author and the Department, a more formal response was given (attached: "FOI 1937"), yet the outcome remained the same.

I am therefore writing to you to on initial advice by the Department of Health to confirm whether you do hold the information requested in the original request to the Department, as shown in attachment "FOI 1937" and pasted again below:

*"All records in the possession, custody or control of The Department of Health describing the isolation of a SARS-COV-2 virus, directly from a sample taken from a diseased patient, where the patient sample was not first combined with any other source of genetic material (i.e. monkey kidney cells aka vero cells; lung cells from a lung cancer patient). Please note that I am using "isolation" in the every-day sense of the word: the act of separating a thing(s) from everything else. I am not requesting records where "isolation of SARS-COV-2" refers instead to:*

- the culturing of something,*
- or the performance of an amplification test (i.e. a PCR test),*
- or the sequencing of something.*

*Please also note that my request is not limited to records that were authored by The Department of Health or that pertain to work done by The Department of Health. My request includes any sort of record, for example (but not limited to) any published peer reviewed study that The Department of Health has downloaded or printed."*

I look forward to your response.

[REDACTED]

---

**Fw: M60-36321\_20210316\_to [REDACTED] MfH Referred to DoH for response - FOI 1937 - Requesting Further Information**

---

Thu, Jul 15, 2021 at 12:01 AM

Reply-To: [REDACTED]  
To: Christine Massey <cmssyc@gmail.com>, "Christine.Massey@protonmail.com" <Christine.Massey@protonmail.com>

Sent with ProtonMail Secure Email.

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

On Tuesday, March 16th, 2021 at 11:41 AM, DOH, FOI <FOI.DOH@health.wa.gov.au> wrote:

**Our ref: M60-36321**

Dear [REDACTED]

I refer to your email sent to the office of the WA Minister for Health, Minister Cook, on 24 February 2021 (attached for reference).

The email refers to an initial request to access records under the (Cth) *Freedom of Information Act 1982*, submitted to the Australian Department of Health (Aust DoH). Attached to your email is the emailed request to Aust DoH, together with the Aust DoH Notice of Decision, confirming no records were identified relevant to the scope of your application.

The Aust DoH also recommended you refer your request to each of the Health Departments of the Australian states and territories; and hence the referral of your request to the separate Ministers for Health.

The office of the WA Minister for Health referred your emailed request to the WA Department of Health (DoH) for direct response.

Prior to progressing the validation of your request to be a formal request to access records under the WA *Freedom of Information Act 1992 (FOI Act)*, which requires payment of the statutory FOI application fee and other required information, action was undertaken by DoH to identify whether any records within the scope of your request were available.

Your request was referred to various areas within DoH, and advice received that if any records were available they would be held by PathWest Laboratory Medicine WA (a part of the WA health system; and a separate agency under the FOI Act). The request was then referred to PathWest for consideration.

It is confirmed that no records have been identified relevant to the scope of your request, except for all of the modalities specifically excluded in your request.

That is, no material pertaining to SARS-CoV-2 isolation without the use of propagator cells. As an organisation for SARS-CoV-2 virus testing PathWest has only been involved in:

- Virus culture using the cells described in the FOI application to Aust DoH.
- Virus PCR.
- Virus sequencing.

I trust this assists.

Best regards

**Nareen Burnell** | Senior Integrity Officer – FOI

Technology and Information Services | Corporate Services | Office of the Director General

Department of Health

2<sup>nd</sup> floor, B Block, 189 Royal Street, EAST PERTH WA 6004

T: (08) 9222 6411

E: [FOI.DOH@health.wa.gov.au](mailto:FOI.DOH@health.wa.gov.au)

[www.health.wa.gov.au](http://www.health.wa.gov.au)

*The contents of this e-mail transmission are intended solely for the named recipient(s), may be confidential, and may be privileged or otherwise protected from disclosure in the public interest. The use, reproduction, disclosure or distribution of the contents of this e-mail transmission by any person other than the named recipient(s) is prohibited. If you are not a named recipient please notify the sender immediately.*

---

 **M60-36321\_Email and attachments.pdf**  
285K

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Wednesday, 24 February 2021 7:15 PM  
**To:** office@hazzard.minister.nsw.gov.au; martin.foley@parliament.vic.gov.au; minister.fyles@nt.gov.au; Ministerforhealth@sa.gov.au; Cook, Minister; sarah.courtney@dpac.tas.gov.au; health@ministerial.qld.gov.au; stephen-smith@act.gov.au  
**Subject:** HPECM: FOI 1937 - Requesting Further Information  
**Attachments:** Initial FOI 1937 Response.pdf; FOI 1937.pdf  
**Categories:** In queue to be logged

Dear Health Ministers,

I am writing to you on advice from the Australian Department of Health (the Department) to seek clarification on information requested in a Freedom of Information (FOI) request that was sent to the Department.

The Department's initial response on 24th August 2020 (attached: "Initial FOI 1937 Response"), stated: "To obtain the information you are seeking please direct your request to the various State and territory Departments of Health".

After further correspondence between the FOI author and the Department, a more formal response was given (attached: "FOI 1937"), yet the outcome remained the same.

I am therefore writing to you to on initial advice by the Department of Health to confirm whether you do hold the information requested in the original request to the Department, as shown in attachment "FOI 1937" and pasted again below:

*"All records in the possession, custody or control of The Department of Health describing the isolation of a SARS-COV-2 virus, directly from a sample taken from a diseased patient, where the patient sample was not first combined with any other source of genetic material (i.e. monkey kidney cells aka vero cells; lung cells from a lung cancer patient). Please note that I am using "isolation" in the every-day sense of the word: the act of separating a thing(s) from everything else. I am not requesting records where "isolation of SARS-COV-2" refers instead to:*

- *the culturing of something,*
- *or the performance of an amplification test (i.e. a PCR test),*
- *or the sequencing of something.*

*Please also note that my request is not limited to records that were authored by The Department of Health or that pertain to work done by The Department of Health. My request includes any sort of record, for example (but not limited to) any published peer reviewed study that The Department of Health has downloaded or printed."*

I look forward to your response.

[REDACTED]

----- Forwarded message -----

From: FOI <FOI@health.gov.au>

Date: Mon, 24 Aug 2020, 12:10

Subject: Freedom of Information Request - Studies re isolation of SARS-COV-2

[SEC=UNOFFICIAL]

To: [REDACTED]

Dear [REDACTED]

I refer to your request to the Australian Government Department of Health (department) below:

*"All records in the possession, custody or control of The Department of Health describing the isolation of a SARS-COV-2 virus, directly from a sample taken from a diseased patient, where the patient sample was not first combined with any other source of genetic material (i.e. monkey kidney cells aka vero cells; lung cells from a lung cancer patient).*

*Please note that I am using "isolation" in the every-day sense of the word: the act of separating a thing(s) from everything else. I am not requesting records where "isolation of SARS-COV-2" refers instead to:*

- the culturing of something,*
- or the performance of an amplification test (i.e. a PCR test),*
- or the sequencing of something.*

*Please also note that my request is not limited to records that were authored by The Department of Health or that pertain to work done by The Department of Health. My request includes any sort of record, for example (but not limited to) any published peer-reviewed study that The Department of Health has downloaded or printed.*

*If any records match the above description of requested records and are currently available to the public elsewhere, please provide enough information about each record so that I may identify and access each record with certainty (i.e. title, author(s), date, journal, where the public may access it).*

The department does not hold the documents you are seeking access too.

To obtain the information you are seeking please direct your request to the various State and Territory Departments of Health.

Kind regards

FOI Officer

FOI Team - FOI and Legislation Support Section

Legal & Assurance Division | Corporate Operations Group

Legal Advice & Legislation Branch

Australian Government Department of Health

T: 02 6289 1666 | E: [FOI@health.gov.au](mailto:FOI@health.gov.au)

GPO Box 9848, Canberra ACT 2601, Australia

*The Department of Health acknowledges the Traditional Custodians of Australia and their continued connection to land, sea and community. We pay our respects to all Elders past and present.*

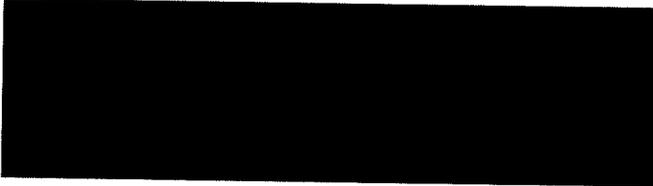
*If you receive this email in error, please delete it and contact the sender immediately.*



**Australian Government**

**Department of Health**

Department Reference: FOI 1937



**NOTICE OF DECISION: UNDER SECTION 24A  
OF THE FREEDOM OF INFORMATION ACT 1982**

I refer to your request of 11 August 2020 to the Department of Health (department) seeking access under the *Freedom of Information Act 1982* (Cth) (FOI Act) to the following documents:

*"All records in the possession, custody or control of The Department of Health describing the isolation of a SARS-COV-2 virus, directly from a sample taken from a diseased patient, where the patient sample was not first combined with any other source of genetic material (i.e. monkey kidney cells aka vero cells; lung cells from a lung cancer patient).*

*Please note that I am using "isolation" in the every-day sense of the word: the act of separating a thing(s) from everything else. I am not requesting records where "isolation of SARS-COV-2" refers instead to:*

- *the culturing of something,*
- *the performance of an amplification test (i.e. a PCR test),*
- *or the sequencing of something.*

*Please also note that my request is not limited to records that were authored by The Department of Health or that pertain to work done by The Department of Health. My request includes any sort of record, for example (but not limited to) any published peer-reviewed study that The Department of Health has downloaded or printed.*

*If any records match the above description of requested records and are currently available to the public elsewhere, please provide enough information about each record so that I may identify and access each record with certainty (i.e. title, author(s), date, journal, where the public may access it)."*

On 24 August 2020, the department sent you an email advising the department does not hold any documents relating to the scope of your request and referring you to the states and territories. You responded the same day, seeking a PDF response and asking questions about SARS-COV-2 Virus Isolation.

I am writing to advise you of my decision.

#### **FOI decision**

I am authorised under subsection 23(1) of the FOI Act to make decisions in relation to Freedom of Information requests. I am writing to notify you of my decision on your request.

All reasonable steps have been taken to find documents referred to in your request including consultation with relevant policy and program areas, thorough searches of departmental file management systems, electronic documents on shared and personal drives and departmental data bases.

I am satisfied the consultation undertaken and the searches conducted were thorough and all reasonable steps have been taken to locate documents relevant to your request. I am satisfied the documents referred to in your request do not exist.

As a consequence, relying on section 24A of the FOI Act, I cannot provide access to the documents you requested.

#### **FOI review rights**

If you are dissatisfied with my decision, you may apply for an internal review or Australian Information Commissioner (Information Commissioner) review of the decision.

#### Internal review

Under section 54 of the FOI Act, you may apply in writing to the department for an internal review of my decision. The internal review application must be made within 30 days of the date of this notice (or such further period as the department allows). Where possible please provide reasons why you consider review of the decision is necessary. The internal review will be carried out by another officer of this department within 30 days.

An application for an internal review should be addressed to:

Email: [FOI@health.gov.au](mailto:FOI@health.gov.au)  
Mail: FOI Unit (MDP 516)  
Department of Health  
GPO Box 9848  
CANBERRA ACT 2601

### Information Commissioner Review

Under section 54L of the FOI Act, you may apply to the Information Commissioner to review my decision. An application for review must be made in writing within 60 days of this notice (if you do not request an internal review).

The Australian Information Commissioner can be contacted by:

Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

Phone: 1300 363 992

More about the Information Commissioner review is available on the Office of the Australian Information Commissioner (OAIC) website at:

<https://www.oaic.gov.au/freedom-of-information/reviews/>

You may also make a complaint to the Information Commissioner about action taken by the department in relation to your application. Further information can be obtained from the OAIC website.

### **Relevant provisions of the FOI Act**

The FOI Act, including the provisions referred to in this letter, can be accessed from the Federal Register of Legislation website:

<https://www.legislation.gov.au/Details/C2020C00110>

### **Additional information**

As mentioned in the department's email to you of 25 August 2020, the FOI Act provides a mechanism for individuals to access 'documents' held by entities such as the department. It does not provide a mechanism for making enquiries or asking questions about issues.

However, outside the FOI Act, I can provide you with the following information that may be of assistance to you.

Point-of-care testing is a form of testing in which the analysis is performed where healthcare is provided, close to or near the patient. All point-of-care test kits for identifying the SARS CoV-2 virus (COVID-19 test kits) approved by the Therapeutic Goods Administration (TGA) for supply within Australia and inclusion in the Australian Register of Therapeutic Goods are listed on the TGA website at: [www.tga.gov.au/covid-19-test-kits-included-artg-legalsupply-australia](http://www.tga.gov.au/covid-19-test-kits-included-artg-legalsupply-australia).

Information about the regulation of in vitro diagnostic medical devices in Australia, including the COVID-19 test kits, is also available on the TGA website at: [www.tga.gov.au/overview-regulatory-framework-vitro-diagnostic-medical-devices](http://www.tga.gov.au/overview-regulatory-framework-vitro-diagnostic-medical-devices)

Additionally, there is a publically available paper on the isolation of SARS-CoV-2 at VIDRL (which describes inoculation of Vero/hSLAM cells which led to the isolation of SARS-CoV-2 in culture), which can be located at the following link:

<https://www.mja.com.au/journal/2020/212/10/isolation-and-rapid-sharing-2019-novel-coronavirus-sars-cov-2-first-patient>

#### Contacts

If you require clarification of any of the matters discussed in this letter you should contact Freedom of Information Unit on (02) 6289 1666 or at [FOI@health.gov.au](mailto:FOI@health.gov.au).

Yours sincerely



K. Bishop  
Principal Lawyer  
Legal Advice & Legislation Branch

9 September 2020

RIVM

t.a.v. H. Burg, Directeur-generaal

Postbus 1

3720 BA Bilthoven

Amsterdam, 16 maart 2021

Betreft: Wob verzoek inzake SARS\_COV-2

Geachte heer Burg,

Onder verwijzing naar bovenstaande wet, heb ik het volgende verzoek:

1. Kunt u mijn een kopie geven van alle wetenschappelijke peer-reviewed publicaties die in uw bezit zijn die de isolatie\* van SARS-COV-2 virus aantonen. Het moet gaan om een monster dat rechtstreeks is afgenomen van een zieke patiënt, het monster mag niet eerst vermengd zijn met enig ander genetisch materiaal. Dit verzoek beperkt zich niet tot publicaties van het RIVM zelf, maar betreft ook enig document dat wie dan ook, waar ook ter wereld, heeft gepubliceerd over de isolatie van SARS-COV-2 en dat in uw bezit is.

\*Isolatie wordt hier gebruikt in de letterlijke betekenis, dus het scheiden van een iets van iets anders. Ik vraag niet om een publicaties die het hebben over cultiveren of PCR gebruiken voor het vermeerderen van genetische materiaal noch publicaties die iets 'sequencing' obv computermodellen.

2. Kunt u mij een kopie geven van alle wetenschappelijk publicaties die in uw bezit zijn die bewijzen dat SARS-COV-2 de veroorzaker is van de ziekte 'COVID-19' conform het Koch postulaat, waarbij aan alle 4 de gestelde voorwaarden is voldaan?

Ik ontvang alle informatie graag in pdf formaat via mail.

Ik zie uw reactie met belangstelling tegemoet.

Hartelijke groet,



Gabriëlle Rutten

Directeur Novet – het Gary Craig Official EFT Training Center

RIVM  
Attn: H. Burg, Director-General  
P.O. Box 1  
3720 BA Bilthoven

Amsterdam, 16 March 2021

Subject: Wob request regarding SARS\_COV-2

Dear Mr Burg,

With reference to the above law, I have the following request:

1. Could you please provide me with a copy of all scientific peer-reviewed publications in your possession that demonstrate the isolation\* of SARS-COV-2 virus. It must be a sample taken directly from a sick patient, the sample must not have been first mixed with any other genetic material. This request is not limited to publications of the RIVM itself, but also concerns any document published by anyone, anywhere in the world, regarding the isolation of SARS-COV-2 that is in your possession.

\*Isolation is used here in the literal sense, i.e. separating one thing from another. I am not asking for any publications that talk about cultivating or using PCR to propagate genetic material nor publications that 'sequence' anything or computer models.

2. Can you give me a copy of all scientific publications in your possession that prove that SARS-COV-2 is the causative agent of the disease 'COVID-19' according to the Koch postulate, where all 4 conditions are met?

I would like to receive all information in pdf format via mail.

I look forward to your response with interest.

Kind regards,  
Gabriëlle Rutten Director Novet - the Gary Craig Official EFT Training Center



Gabriëlle Rutten  
Directeur Novet – het Gary Craig Official EFT Training Center



> Retouradres Postbus 20350 2500 EJ Den Haag

UITSLUITEND PER E-MAIL

De heer G. Rutten

[info@official-eft.nl](mailto:info@official-eft.nl)

Datum 26 april 2021  
Betreft Verzoek om informatie

Geachte heer Rutten,

Op 16 maart 2021 ontving ik uw e-mail. De ontvangst hiervan heb ik bevestigd bij brief van 29 maart 2021 met kenmerk 2021.063/001.

Met een beroep op de Wet openbaarheid van bestuur (hierna: Wob) verzoekt u om alle wetenschappelijke peer-reviewed publicaties die de isolatie van het SARS-COV-2 aantonen. Verder heeft u verzocht om wetenschappelijke publicaties die bewijzen dat voornoemd virus de veroorzaker is van de ziekte 'Covid-19'.

De Wob is overeenkomstig artikel 6, eerste lid enkel van toepassing op informatie die is neergelegd in documenten die niet reeds openbaar zijn. De door u gevraagde informatie betreft openbare informatie. Hiernavolgend zal ik aangeven waar u de betreffende informatie kunt vinden.

Het coronavirus Sars-Cov-2 is het virus dat de ziekte COVID-19 kan veroorzaken. Meer informatie hierover kunt u vinden op de website van het Rijkinstituut voor Volksgezondheid en Milieu (hierna: RIVM) onder het kopje 'virus' ([www.rivm.nl/coronavirus-covid-19/virus](http://www.rivm.nl/coronavirus-covid-19/virus)). Voor de wetenschappelijke rapporten over het bestaan van Sars-Cov2 verwijs ik u naar de volgende websites: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7159086/> en <https://pubmed.ncbi.nlm.nih.gov/31978945/>.

Naast de hierboven genoemde website van het RIVM, wil ik ook op de volgende website van het RIVM wijzen: <https://lci.rivm.nl/richtlijnen/covid-19>. Op deze website treft u relevante literatuur aan.

Mocht u nog vragen hebben over deze brief, neemt u dan gerust contact op met

**Directie Wetgeving en  
Juridische Zaken**

Bezoekadres:  
Parnassusplein 5  
2511 VX Den Haag  
T 070 340 79 11  
F 070 340 59 84  
[www.rijksoverheid.nl](http://www.rijksoverheid.nl)

**Inlichtingen bij**

mr. B. Gomes Caixinha Knaff  
Cluster Wob  
[wvs.wob@minvws.nl](mailto:wvs.wob@minvws.nl)  
T 070 340 5564  
T (b.g.g.) 070 340 5400

**Ons kenmerk**

2021.063  
2350619-1007570-WJZ

**Uw e-mail van**

16 maart 2020

**Bijlage**

*Correspondentie uitsluitend  
richten aan het retouradres  
met vermelding van de  
datum en het kenmerk van  
deze brief.*



het Wob-cluster. De contactgegevens staan bovenaan deze brief.

Hoogachtend,

de Minister van Volksgezondheid,  
Welzijn en Sport,  
namens deze,  
de directeur Wetgeving en Juridische Zaken,

mr. M.M. den Boer

**Directie Wetgeving en  
Juridische Zaken**

**Ons kenmerk**  
2021.063  
2350619-1007570-WJZ

**(English Translation of response from the Dutch)  
Ministry of Health, Well-being and Sport**

> Return address PO Box 20350 2500 EJ The Hague

BY E-MAIL ONLY  
Mr G. Rutten  
info@official-eft.nl

Date 26 april 2021  
Subject Request for information

Dear Mr Rutten,

On March 16, 2021, I received your email. I confirmed receipt of this letter of 29 March 2021 with characteristic 2021.063/001.

By invoking the Public Administration Act (hereinafter: Wob), you request all scientific peer-reviewed publications that promote the isolation of the SARSCOV 2. You have also requested scientific publications that prove that the aforementioned virus is the cause of the disease 'Covid-19'.

In accordance with Article 6(1), the Wob only applies to information documented in documents which are not already public. The requested information concerns public information. Next I will indicate where you can find the relevant information.

The coronavirus Sars-Cov-2 is the virus that can cause the disease COVID-19. More information about this can be found on the website of the Government Institute for Public Health and the Environment (hereinafter: RIVM) under the heading 'virus' ([www.rivm.nl/coronavirus-covid-19/virus](http://www.rivm.nl/coronavirus-covid-19/virus)). For the scientific reports about the existence of Sars-Cov2 I refer you to the following websites:

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7159086/> and  
<https://pubmed.ncbi.nlm.nih.gov/31978945/>.

In addition to the website of the RIVM mentioned above, you might also like to visit the following RIVM website: <https://lci.rivm.nl/richtlijnen/covid-19>. On this website you will find relevant literature.

If you have any questions about this letter, please feel free to contact the Wob cluster. The contact details are at the top of this letter.

Sincerely,

the Minister for Health,  
Well-being and Sport,  
on behalf of this,  
the Director of Legislation and Legal Affairs,  
Mr. M.M. den Boer