

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**CITIZENS FOR RESPONSIBILITY AND
ETHICS IN WASHINGTON,**

Plaintiff,

v.

**CENTERS FOR DISEASE CONTROL
AND PREVENTION, *et al.*,**

Defendants.

Civil Action No. 25-01020 (TJK)

PLAINTIFF’S COUNTER-STATEMENT OF DISPUTED FACTS

Pursuant to Local Civil Rule 7(h)(1), Plaintiff Citizens for Responsibility and Ethics in Washington (“CREW”) submit these responses to Defendants’ Statement of Material Facts not in Dispute (ECF No. 44-1) in support of their cross-motion for summary judgment (ECF No. 44).

DEFENDANTS’ STATEMENT OF MATERIAL FACTS	PLAINTIFF’S RESPONSE
Reorganization	
1. U.S. Department of Health and Human Services (“HHS” or the “Department”) Freedom of Information Act (“FOIA”) administration has historically been decentralized until the Department commenced its ongoing reorganization, consisted of independently run FOIA offices at eleven (11) Operating Divisions (“OpDivs”) including at the U.S. Centers for Disease Control and Prevention (“CDC-FOIA”), as well. William H. Holzerland ¶6, ECF 18-1 (“Holzerland 1st Decl.”)	This paragraph is admitted insofar as it describes HHS’s historically decentralized FOIA administration and independently run FOIA offices at OpDivs. This paragraph is denied insofar as it characterizes the shutdown of the CDC FOIA office as part of an “ongoing reorganization.” Defendants have themselves characterized the reorganization as effectuated on April 1, 2025. <i>See, e.g.</i>, Suppl. Decl. of William H. Holzerland ¶ 7, ECF No. 25-1 (discussing the “April 1, 2025 FOIA reorganization”) [hereinafter Holzerland Suppl. Decl.]; Third Decl. of William H. Holzerland ¶ 8, ECF No. 38-1 (“As of April 1, 2025, the HHS FOIA administration underwent a reorganization

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	into a more centralized system.”). What Defendants have described as ongoing is resolving the technical and other difficulties with their April 1 reorganization decision and implementing their decision. <i>See, e.g.,</i> Holzerland Suppl. Decl. ¶ 22; Fourth Decl. of William H. Holzerland ¶ 11, ECF No. 43-3 [hereinafter Holzerland 4th Decl.].
2. Some of the HHS’s FOIA eleven (11) operating divisions were further decentralized, and during the reporting period, had numerous offices that issued their own FOIA responses. During the reporting period of the <i>2025 Chief FOIA Officer Report</i>, the U.S. Food & Drug Administration (“FDA”), for example, had at least <i>seven</i> (7) FOIA offices embedded within its numerous Centers issuing FOIA responses during that timeframe, with a distant relationship to the headquarters “Division of Freedom of Information” within the Office of the Commissioner at that time, and an even more remote connection with the Department. However, FDA FOIA operations have since been centralized under the FDA Office of the Chief Operating Officer. Similarly, the National Institutes of Health (“NIH”) had at least eight (8) offices that handled discrete aspects of its FOIA obligations during the reporting period, but the report itself does not obligate the Department to continue operating in the decentralized manner described therein. William H. Holzerland Fourth Declaration, ¶¶87-88 (“Holzerland 4th Decl.”).	This paragraph is denied because it does not present material facts; it concerns FOIA operations at FDA and NIH, neither of which is at issue in this suit concerning CDC FOIA operations. <i>See, e.g., Holcomb v. Powell</i>, 433 F.3d 889, 895 (D.C. Cir. 2006) (“A fact is material if a dispute over it might affect the outcome of a suit under governing law; factual disputes that are irrelevant or unnecessary do not affect the summary judgment determination.” (quotation marks omitted)). This paragraph is also denied to the extent it presents a legal conclusion about the obligation that NIH continue operating in a decentralized manner, which is not a material fact to which CREW must respond. <i>See, e.g., Jackson v. Finnegan, Henderson, Farabow, Garrett & Dunner</i>, 101 F.3d 145, 153 (D.C. Cir. 1996) (disregarding legal argument blended with factual assertions). CREW otherwise lacks sufficient knowledge to admit or deny this paragraph. <i>See, e.g., Jud. Watch, Inc. v. Food & Drug Admin.</i>, 449 F.3d 141, 145-46 (D.C. Cir. 2006) (discussing asymmetrical distribution of knowledge between a requester and an agency in FOIA litigation).
3. The Department received and processed the fifth-most FOIA requests amongst federal agencies during Fiscal Year	This paragraph is admitted to the extent it explains that HHS received and processed the fifth-most FOIA requests during FY 2024 and

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(“FY”) 2024. <i>See</i>, U.S. Department of Justice 2024 Annual FOIA Report Summary, available at https://www.justice.gov/oip/media/139811/dl?inline. Generally speaking, the highly federated FOIA operations at the Department led to significant risk of uneven application of FOIA across the Department and an untenable volume of FOIA litigation. With 122 agencies subject to FOIA in Fiscal Year 2024, HHS expended 26% of the entire government’s FOIA litigation costs during that timeframe. <i>See</i>, HHS Fiscal Year 2024 Freedom of Information Annual Report, available at https://www.hhs.gov/foia/reports/annual-reports/2024/index.html. Holzerland 1st Decl. ¶¶9-10, ECF 18-1.	accounted for 26% of government FOIA litigation costs during this period. These figures come from the cited annual reports, which are the best evidence of their contents; CREW respectfully refers the Court to the reports for a complete and accurate statement of their contents. Defendants’ statement that, “[g]enerally speaking, the highly federated FOIA operations at the Department led to significant risk of uneven application of FOIA across the Department and an untenable volume of FOIA litigation” is a characterization or opinion that CREW denies because it is not supported by any data or analysis. CREW respectfully refers the Court to Defendants’ 2025 <i>Chief FOIA Officer Report HHS</i>, HHS (Mar. 10, 2025), https://www.hhs.gov/foia/statutes-and-resources/officers-reports/2025-introduction/index.html [hereinafter 2025 <i>Chief FOIA Officer Report</i>], and <i>HHS Fiscal Year 2024 Freedom of Information Annual Report</i>, HHS (Feb. 21, 2025), https://www.hhs.gov/foia/reports/annual-reports/2024/index.html [hereinafter 2024 <i>Annual FOIA Report</i>], for a complete and accurate statement of FOIA application at HHS.
4. Until April 1, 2025, each of the Department’s FOIA offices responded to FOIA requests, the FOIA Office of the Office of the Secretary (“OS-FOIA”) responded to initial FOIA requests for records maintained by all OS staff divisions, save for OIG, and multiple OpDivs; ensures consultation with the Office of the General Counsel; reviews and processes all departmental appeal decisions other than those from Centers for Medicare and Medicaid Services (“CMS”) and FDA; establishes	Admitted.

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departmental FOIA policies; and monitors FOIA implementation throughout the Department. Holzerland 1st Decl. ¶7, ECF 18-1. Holzerland 4th Decl. ¶8.	
5. Pursuant to HHS regulations, OS-FOIA may at its discretion also process FOIA requests involving other HHS OpDivs. Under the definitions' section of the departmental FOIA regulations found at 45 C.F.R. § 5.3, the definition of "Office of the Secretary" states, in pertinent part: "The HHS FOIA Office within ASPA [Office of the Assistant of Public Affairs] processes FOIA requests for records maintained by OS Staff Divisions other than the OIG. In certain circumstances and at the HHS FOIA Office's discretion, the HHS FOIA office may also process FOIA requests involving other HHS OpDivs." Holzerland 1st Decl. ¶11, ECF 18-1.	This paragraph is denied to the extent it consists of Defendants' misleading characterization of HHS FOIA regulations, which contain the best evidence of their contents. Per the plain text of 45 C.F.R. § 5.3, Defendants do not have unlimited discretion to process all the FOIA requests of another HHS OpDiv; to the extent the first sentence of this paragraph implies otherwise, denied. This paragraph is admitted to the extent it directly quotes the regulations. CREW respectfully refers the Court to 45 C.F.R. § 5.3, and in particular the provision's definition of "Office of the Secretary," for a complete and accurate statement of its contents.
6. On February 11, 2025, President Trump signed Executive Order 14210 entitled "Implementing the President's 'Department of Government Efficiency' Workforce Optimization Initiative. <i>Available at</i> Implementing The President's 'Department of Government Efficiency' Workforce Optimization Initiative – The White House. ("Executive Order 14210"). Section 1 "Purpose" of Executive Order 14210 states: "[t]o restore accountability to the American public, this order commences a critical transformation of the Federal bureaucracy. By eliminating waste, bloat, and insularity, my Administration will empower American families, workers, taxpayers, and our system of Government itself. Holzerland 1st Decl.	Admitted. This paragraph is a direct quote from Executive Order 14,210. CREW refers the Court to Executive Order 14,210 for a complete and accurate statement of its contents.

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¶13, ECF 18-1.	
7. Section (3)(c) of Executive Order 14210 further states that: “(c) Reductions in Force. Agency Heads shall promptly undertake preparations to initiate large-scale reductions in force (RIFs), consistent with applicable law, and to separate from Federal service temporary employees and reemployed annuitants working in areas that will likely be subject to the RIFs. All offices that perform functions not mandated by statute or other law shall be prioritized in the RIFs, including all agency diversity, equity, and inclusion initiatives; all agency initiatives, components, or operations that my Administration suspends or closes; and all components and employees performing functions not mandated by statute or other law who are not typically designated as essential during a lapse in appropriations as provided in the Agency Contingency Plans on the Office of Management and Budget website. This subsection shall not apply to functions related to public safety, immigration enforcement, or law enforcement.” Holzerland 1st Decl. ¶14, ECF 18-1.	Admitted. This paragraph is a direct quote from Executive Order 14,210. CREW respectfully refers the Court to Executive Order 14,210 for a complete and accurate statement of its contents.
8. In compliance with Executive Order 14210, on March 27, 2025, the Department announced that it would undergo a significant restructuring that would streamline the functions of the Department. <i>Available at</i> https://www.hhs.gov/press-room/hhs-restructuring-doge.html (last accessed on August 22, 2025). In that announcement, the Department indicated that as of that time, the 28 divisions of the HHS contained many redundant units.	This paragraph is admitted as to the existence of the HHS Press Release. CREW respectfully refers the Court to the linked press release for a complete and accurate statement of its contents. This paragraph is also admitted as to the fact that, on or around April 1, 2025, Defendants commenced a RIF across HHS that significantly impacted the department's workforce, structure, and operations. This paragraph is denied to the extent that it implies a characterization or conclusion in the underlying press statement that HHS

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Consequently, on or around April 1, 2025, HHS and its affiliated agencies commenced a Reduction in Force ("RIF") that significantly changed the Department's workforce and started the process of restructuring the organization. Holzerland 1st Decl. ¶¶15-16, ECF 18-1.	contained many redundant units prior to the RIF, which is not a material fact to which CREW must respond, including because it does not concern HHS/CDC FOIA operations. CREW respectfully refers the Court to 45 C.F.R. § 5.3 for a complete and accurate statement of the required FOIA organization at HHS/CDC.
9. Pursuant not only to the "Purpose" part of Section 1 of Executive Order 14210, but also with HHS regulation 45 CFR 5.3 mentioned above in Row 5, and as part of the reorganization, OS-FOIA thereby exercised its discretion to process FOIA requests that involved other HHS OpDivs, including FOIA requests that involved CDC moving forward because HHS intent was that streamlining inefficient operations will benefit the public by enhancing transparency and accountability to the taxpayer. Holzerland 1st Decl. ¶¶17-18, ECF 18-1.	This paragraph consists in part of Defendants' characterization of HHS FOIA regulations and Executive Order 14,210; the regulations and the executive order are the best evidence of their contents. CREW otherwise denies this paragraph on multiple bases. It consists of a legal conclusion about OS FOIA discretion under Executive Order 14,210 and 45 C.F.R. § 5.3, which is not a material fact to which CREW must respond. This paragraph also consists of Defendants' characterization of HHS's "intent," which is not a material fact because it does not concern what Defendants and HHS actually did with respect to FOIA processing at CDC. This paragraph also erroneously implies that OS FOIA invoked both Executive Order 14,210 and 45 C.F.R. § 5.3 at the time OS FOIA took over CDC FOIA request processing responsibility; Defendants do not identify any record evidence indicating that they invoked 45 C.F.R. § 5.3 prior to this suit. <i>See</i> Defs.' Counter-Statement of Disputed Material Facts ¶ 37 (stating that they could not confirm public invocation of § 5.3 prior to May 1), ECF No. 43-1 [hereinafter Defs.' Counter SOMF]; Decl. of Alex M. Goldstein in Support of CREW MSJ Opp. ¶ 6 (excerpt of email sent by Defendants' declarant to other OS FOIA employees on April 4, after the April 1 reorganization, that "we received zero advance notice of what occurred earlier this week") [hereinafter Suppl. Goldstein MSJ Decl.]; <i>id.</i> ¶¶ 6-7 (excerpts of other emails

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	from Defendants' declarant with similar discussion and with assessment that requiring OS FOIA to handle CDC requests would be suboptimal and result in service delays).
10. As necessary background, the Secretary of HHS oversees all Operating Divisions of the Department and has plenary authority to ensure the Department's budget is spent effectively and its programs are executed efficiently. Pursuant to Executive Order 13392 and the FOIA, the Assistant Secretary for ASPA (Assistant Secretary for Public Affairs) has been designated as the Agency Chief FOIA Officer for the Department with the responsibilities set forth in 5 U.S.C. § 552(j), and the Secretary delegated authority to implement and administer the FOIA across the Department to ASPA. On behalf of the Secretary of HHS, the OS FOIA program executes this oversight work in addition to the day-to-day transactional work of processing FOIA requests on behalf of CDC, ACF, and the Administration for Community Living ("ACL"), along with processing FOIA appeals for nearly the entire Department (save for CMS and until September 2020, the FDA). Holzerland Supp. Decl. ¶29, ECF 25-1.	The first sentence of this paragraph is denied because it is immaterial; the Secretary's general authority over Operating Divisions and HHS's budget and programs is not a fact that could affect the resolution of this suit. The second sentence is admitted to the extent it describes the definition of the "Chief FOIA Officer" in 45 C.F.R. § 5.3, which contains the best evidence of its contents; CREW respectfully refers the Court to that definition for a complete and accurate statement of its contents. The first two clauses of the second sentence are admitted to the extent they describe the administration and oversight work specified in the definition of the "Office of the Secretary" in 45 C.F.R. § 5.3, which contains the best evidence of its contents; CREW respectfully refers the Court to that definition for a complete and accurate statement of its contents. The second clause of the second sentence is further admitted to the extent that it describes OS FOIA's takeover of FOIA processing responsibilities for CDC, ACF and ACL as of April 1, 2025, and the third clause is admitted.
11. For decades, FOIA implementation at HHS' Operating Divisions, including CDC, has operated under delegations of authority that were revocable. For example, two memoranda from June and August 2014 show that the Deputy Agency Chief FOIA Officer exercised "delegated authority" over HHS' FOIA operations from the Agency Chief FOIA Officer. Holzerland 4th Decl. ¶84.	This paragraph is denied to the extent it characterizes delegations of authority as being the primary means that FOIA is implemented at the agency. CREW respectfully refers the Court to HHS FOIA regulations, at 45 CFR Part 5, which provide binding rules for how FOIA has been and must be implemented at HHS. <i>See</i> Defs.' Opp. to Pl.'s Mot. for Summ. J. & Partial Cross-Mot. for Summ. J. & Mot. to Dismiss with a Mem. of L. in Supp.

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	Thereof 25, ECF No. 43 [hereinafter Defs' Mem.]. This paragraph is further denied because the referenced memoranda concern delegations of the "Chief FOIA Officer" duties, as laid out in 45 C.F.R. § 5.3, and not all FOIA implementation at Operating Divisions and their power to process FOIA requests more broadly; the HHS FOIA regulations and memoranda contain the best evidence of their respective contents, and CREW respectfully refers the Court to them for a complete and accurate statement of their contents. This paragraph is further denied because of HHS's own official representations, dating back many years, as to its intentionally decentralized FOIA operations, with Operating Divisions wielding their own authority. 45 C.F.R. § 5.3; <i>U.S. Department of Health and Human Services (HHS) Chief Freedom of Information Act (FOIA) Officer Report</i>, at 14, HHS (Mar. 15, 2020), http://web.archive.org/web/20130607023958/http://www.hhs.gov/foia/final_chief_foia_officer_rpt.pdf ("The Department has an established legacy of a decentralized FOIA program structure for responding to FOIA requests."); HHS, <i>Chief Freedom of Information Act (FOIA) Officer Reports (2011)</i>, at Section II, HHS, http://web.archive.org/web/20130614133005/http://www.hhs.gov/foia/reference/step2.html (explaining that "[e]ach [HHS] office has a unique situation in terms of the records it handles and the nature of the programs with which it deals," and that, in the "decentralized" system, offices can address their own workload, staffing, and technology needs); <i>HHS Fiscal Year 1998 Freedom of Information Annual Report</i>, HHS, http://web.archive.org/web/20130607023955/http://www.hhs.gov/foia/98anlrpt.html

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	(explaining that HHS operating divisions have the authority to release or deny their own records). This paragraph is admitted only to the extent it describes delegations of Chief FOIA Officer duties.
12. On September 3, 2024, the Chief FOIA Officer redelegated certain authority to operate the HHS FOIA program to Mr. Holzerland's position, the Deputy Agency Chief FOIA Officer. Mr. Holzerland then signed delegations of authority to Operating Division FOIA Offices the same day. Holzerland 4th Decl. ¶85.	This paragraph is admitted to the extent it characterizes certain cited and referenced memoranda, which contain the best evidence of their contents; CREW respectfully refers the Court to the memoranda for a complete and accurate statement of their contents. This paragraph is denied to the extent it implies that the delegated authority is authority beyond Chief FOIA Officer duties; that is inconsistent with the memoranda and 45 C.F.R. § 5.3.
13. Consistent with existing Departmental delegated authority and Executive Order 14210, to enhance the efficiency of the service and effect the reorganization under orders from the Secretary, on August 1, 2025, Mr. Holzerland revoked the September 3, 2024, delegation of authority to the CDC-FOIA program, reassigning the responsibility to respond to requests for CDC records to OS-FOIA. Holzerland 4th Decl. ¶86.	This paragraph is denied to the extent it states a legal conclusion regarding consistency with departmental delegated authority and Executive Order 14,210; this legal conclusion does not state a material fact to which Plaintiff must respond. This paragraph is further denied because the referenced delegated authority and Executive Order 14,210 do not authorize Mr. Holzerland's August 1, 2025 memorandum—the memoranda for the reasons discussed in paragraphs 11 and 12 above and the executive order because, per section (c), it only directs RIFs for “offices that perform functions not mandated by statute or other law.” CREW respectfully refers the Court to the referenced materials for a complete and accurate statement of their contents. This paragraph is admitted only to the extent that it describes Mr. Holzerland's August 1, 2025 memorandum; the memorandum contains the best evidence of its contents, and

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	CREW respectfully refers the Court to the memorandum for a complete and accurate statement of its contents, including the authority on which it relies, its aims, and the actions it carries out. CREW does not admit the legality of the memoranda's contents.
14. Substantively identical documents revoking delegations of authority were issued to ACF and ACL the same day. Additional steps consistent with the Secretary's orders will be executed as we prepare the infrastructure to centralize the HHS FOIA program in the months to follow. Holzerland 4th Decl. ¶86.	The first sentence in this paragraph is denied to the extent it does not present material facts; it primarily concerns purported FOIA delegation revocations at ACF and ACL, neither of which is at issue in this suit concerning CDC FOIA authority and OS FOIA's takeover of that authority. Moreover, CREW lacks sufficient knowledge to admit or deny whether Defendants issued "[s]ubstantively identical documents" with respect to ACF and ACL, including because Defendants provide no documentary proof. The first sentence is admitted only to the extent that OS FOIA has assumed FOIA processing responsibilities for ACF and ACL. The first sentence in this paragraph is denied to the extent it does not present material facts; it concerns Defendants' future, unspecified intentions to "prepare the infrastructure to centralize" FOIA operations further with "[a]dditional steps," which says nothing of their present and future ability to carry out their CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5.
15. As of September 2, 2025, with its reorganization, the Department has synthesized the existing FOIA workloads of the former FOIA Office for the Administration for Children and Families ("ACF"), the former FOIA Office for the Administration for Community Living, the former CDC-FOIA into OS-FOIA workload, inclusive of all pending and new FOIA requests, litigation	This paragraph is admitted only to the extent that OS FOIA has assumed responsibility for CDC, ACF, and ACL FOIA processing. The statistic provided, <i>i.e.</i>, the 196 "pre-existing FOIA cases" processed, is not in-and-of-itself a material fact because: (1) Defendants do not specify that the 196 requests were CDC requests (which OS FOIA is newly responsible for and which are at issue

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productions, and email boxes. In doing so, OS-FOIA has taken the steps necessary to process one hundred ninety-six (196) pre-existing FOIA requests that had been received prior to April 1, 2025 (the date when the Department's reorganization started). From the date of the reorganization (April 1, 2025), OS-FOIA processed them to their final disposition. Stated differently, this means that after the April 1, 2025 reorganization started, in compliance with 5 U.S.C. §552(a)(3), OS-FOIA has made ongoing, reasonable efforts to acknowledge new requests, search for responsive records, and process responsive records identified for public release, generally on a first-in, first-out basis which has resulted in resolving these one hundred ninety-six (196) pre-existing FOIA cases. William H. Holzerland ¶¶7-8, ECF 25-1 ("Holzerland Supp. Decl.") 7-8, ECF 25-1 ("Holzerland Supp. Decl."); Holzerland 4th Decl. ¶10.	in this case) or OS FOIA requests (which OS FOIA has always been responsible for and are not at issue in this case); (2) the 196 figure comes out to almost 40 requests processed per month between the beginning of April and beginning of September, or almost 60 requests processed per month between the back half of May, when OS FOIA states it began working on CDC FOIA requests, <i>see</i> paragraph 28; Defs.' Mem. 40, and the beginning of September. These numbers are generally in line with the 79-105 OS FOIA requests that OS FOIA processed per month in the three quarters prior to the April 1 reorganization, <i>see</i> Create a Quarterly Report, FOIA.gov, https://www.foia.gov/quarterly.html, especially when one factors in the resources and time OS FOIA has had to devote to effectuating the April 1 reorganization and its loss of staff, both of which have likely impacted its usual processing, <i>see, e.g.</i>, Holzerland 1st Decl. ¶¶ 44, 49; Holzerland Suppl. Decl. ¶¶ 16, 22; Holzerland 4th Decl. ¶ 12; Defs.' Counter SOMF ¶¶ 48, 51; Suppl. Goldstein MSJ Decl. ¶¶ 6-7; and, (3) on Defendants' own terms, the 196 figure likely includes some or all <i>non</i>-CDC requests because it involves processing that occurred from April 1 to May and June, a time in which, as Defendants admit, they lacked basic access to CDC systems and, even with their access, faced difficulties accessing CDC drives and transitioning CDC records that continued through at least August, <i>see</i> Holzerland Suppl. Decl. ¶ 16; Joint Status Rep. at 1, <i>Informed Consent Action Network ("ICAN") v. CDC et al.</i>, No. 24-cv-1000 (D.D.C. May 12, 2025), ECF No. 18 (admitted at Defs.' Counter SOMF ¶ 52); Joint Status Rep. at 1, <i>ICAN v. CDC et al.</i>,

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	No. 25-cv-1331 (D.D.C. June 20, 2025), ECF No. 12 (admitted at Defs.' Counter SOMF ¶ 53); Joint Status Rep. at 1, <i>ICAN v. CDC et al.</i>, No. 25-cv-1331 (D.D.C. Aug. 20, 2025), ECF No. 13; Joint Status Rep. at 1-2, <i>Bloomberg L.P. v. CDC et al.</i>, No. 24-cv-3343 (D.D.C. July 29, 2025), ECF No. 17; <i>see also</i> Holzerland Suppl. Decl. ¶¶ 8, 22-23 (similarly presenting FOIA processing figure of OS FOIA request disposition from April 1-May 19, most of which was a period that, on Defendants' own terms, they lacked even basic access to CDC systems). CREW otherwise lacks sufficient knowledge to admit or deny this paragraph. <i>See Jud. Watch</i>, 449 F.3d at 145-46.
16. The closure of an HHS Operating Division program office like CDC-FOIA does not equate to a suspension of FOIA rights or a breakdown in public access. FOIA is an agency-wide obligation, and the Department has commenced centralizing processing under OS-FOIA consistent with 45 C.F.R. §5.3 and long-standing administrative discretion for the explicit purpose of enhancing customer service and consistency of application of the law. Holzerland 4th Decl. ¶91.	This paragraph is denied. It presents legal conclusions about FOIA office closures, 45 C.F.R. § 5.3, and administrative discretion, and it presents Defendants' self-serving characterization of their actions and their legality, none of which is a material fact to which Plaintiff must respond. CREW respectfully refers the Court to 45 C.F.R. § 5.3 for a complete and accurate statement of its contents. Moreover, this paragraph's assertions regarding how an office closure does not "equate to" FOIA violations or transparency breakdowns, and how HHS is acting with the "explicit purpose" of enhancing customer service and consistency of application of the law, are not material and thus denied. These assertions do not affect resolution of this case, because they do not represent facts regarding whether Defendants are, in actuality, carrying out their CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5.
17. When a requester attempts to submit a	The facts in this paragraph are admitted, as of

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FOIA request directly to the former CDC-FOIA email address, the following message appears: "For all FOIA requests, please go to the HHS FOIA Office website: https://www.hhs.gov/foia/index.html." Available at Freedom of Information Act FOIA CDC. In clicking that link, the FOIA submitter is then directed to the HHS FOIA webpage that encourages requesters to submit requests online via the Public Access Link (PAL). Requesters are redirected to a webpage that states "Welcome to the Health and Human Services - Online FOIA Public Access Link." Available at HHS FOIA Submission Site-Home. <i>See</i> Holzerland Supp. Decl. ¶20, ECF 25-1, ECF 25-2, Exh. 2 and 3. Holzerland 4th Decl. ¶21	the date of the cited exhibits (ECF Nos. 25-1, 25-2). This paragraph characterizes certain exhibits, which are the best evidence of their contents; CREW respectfully refers the Court to the referenced exhibits for a complete and accurate statement of their contents. CREW additionally avers that, as of October 17, 2025, the HHS and CDC FOIA portals are not functional. <i>See</i> Suppl. Goldstein MSJ Decl. ¶¶ 26-28.
18. All portal requests submitted through the CDC-FOIA portal are automatically directed to the HHS FOIA tracking system. Holzerland 4th Decl. ¶99.	CREW lacks sufficient knowledge to admit or deny this paragraph. <i>See Jud. Watch</i>, 449 F.3d at 145-46.
19. The Department historically maintained a fragmented information technology environment, with CDC-FOIA data hosted on a separate network from that of the Department. As of September 3, in addition to redirecting requesters that are sending requests via email to CDC, the Department has ensured that all requests submitted through the FOIA.gov portal are automatically routed to a central tracking system managed by OS FOIA personnel. The Department has not yet deactivated the CDC-FOIA portal because doing so would cause technical issues for previously submitted FOIA requests. Therefore, while it would be the least direct method of submission and thus, not recommended, individuals with	The first sentence is admitted. CREW lacks sufficient knowledge to admit or deny the remaining sentences of this paragraph. <i>See Jud. Watch</i>, 449 F.3d at 145-46.

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preexisting access to the CDC-FOIA database that existed prior to April 1, 2025, may still submit requests through the CDC-FOIA portal, which OS FOIA personnel is monitoring. Holzerland 1st Decl. ¶8, ECF 18-1. Holzerland 4th Decl. ¶11.	
20. There were technical issues inherent in assimilating new work into the existing OS-FOIA portfolio which were exacerbated by a well-publicized personnel and cybersecurity incident permitted by the commercial vendor both OS-FOIA and CDC utilized at the time to track, report on, and process FOIA requests. The processing of FOIA requests does not occur in a vacuum, but rather, occurs concurrent with agencies fulfilling other aspects of its mission, including responding to and mitigating alleged malicious acts of third parties. https://www.bloomberg.com/news/newsletters/2025-05-21/how-2-hackers-erased-hundreds-of-foia-requests (accessed August 13, 2025). Holzerland Third Decl. ¶11, ECF 38-1.	This paragraph is admitted to the extent it describes “technical issues” that affected the attempted integration of CDC’s FOIA work into OS FOIA’s portfolio. The cybersecurity incident mentioned in the first and second sentences of this paragraph is immaterial. Neither the cited declaration nor the cited article indicates that OS FOIA “lost” CDC FOIA requests because of the cybersecurity incident—which the cited article (which CREW respectfully refers the Court to but does not admit represents admissible evidence for purposes of summary judgment) indicates was the impact of the incident. Because Defendants do not provide any detail on the impact of the cybersecurity incident on CDC records or CDC FOIA processing, CREW denies this paragraph’s discussion of the incident as immaterial. CREW likewise denies as immaterial the paragraph’s vague discussion of how FOIA processing generally occurs alongside other aspects of agencies’ missions; this assertion is not material to the resolution of whether Defendants are carrying out their CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5. CREW otherwise lacks sufficient knowledge to admit or deny the impact of the cybersecurity incident mentioned. <i>See Jud. Watch</i>, 449 F.3d at 145-46.
21. As part of this transition, ongoing reorganization and modernization efforts, the Department is preparing to launch a	This paragraph is denied because it does not state material facts; Defendants’ plan to launch an AI pilot program in the future does

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pilot program that uses artificial intelligence (AI) tools to assist with the initial review of records responsive to FOIA requests. This pilot will focus on the first-level review phase, where records are typically screened for responsiveness, duplication, and the potential presence of sensitive or exempt information. The AI tool will not make final determinations but will support FOIA staff by tagging potentially responsive documents, identifying common exemption categories (as personally identifiable information or deliberative content) and flagging duplicates or irrelevant material. All AI-assisted review outputs will be subject to human verification by trained FOIA personnel before any determination is issued to a requester. Holzerland 4th Decl. ¶104.	not establish that Defendants are, in actuality, carrying out their CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5. CREW lacks sufficient knowledge to admit or deny this paragraph to the extent it asserts HHS's preparations to launch an AI pilot program and the details of that program. <i>See Jud. Watch</i>, 449 F.3d at 145-46.
22. This AI pilot program is one of several concurrent measures the Department is implementing to improve efficiency and reduce FOIA processing times, particularly in light of the increased volume of requests and recent workforce restructuring. By automating repetitive and time-consuming elements of the document review process, the pilot aims to accelerate the pace of FOIA responses while enhancing accuracy, speed, security, and legal compliance, while reducing subjectivity in the review process. If successful, the AI-assisted workflow could allow the Department to process requests more quickly and equitably, benefitting all requesters—including those whose cases were previously assigned to the former CDC-FOIA. By order of the Secretary, the OS-FOIA Program will be posting all	This paragraph is denied because it does not state material facts; Defendants' plan to launch an AI pilot program in the future does not establish that Defendants are, in actuality, carrying out their CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5. CREW lacks sufficient knowledge to admit or deny this paragraph to the extent it asserts HHS's preparations to launch an AI pilot program and the details of that program. <i>See Jud. Watch</i>, 449 F.3d at 145-46.

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FOIA responses online, concurrent with release, as part of this pilot program. This reflects the Department's commitment to continuous improvement, transparency, and modernization in FOIA service delivery. Holzerland 4th Decl. ¶105.	
23. HHS goal in streamlining FOIA operations is to increase consistency by standardizing the Department's approach to radical transparency. FOIA policies procedures and exemptions can better be applied across the Department, reducing disparities in how the Department handles FOIA requests. Consolidation of duplicative functions allows better efficiency because it optimizes resources. A dedicated OS-FOIA team can streamline workflows, and because tools can be shared, reduce duplication of effort and costs, and leverage specialized expertise, leading to faster response times and better resource allocation. Holzerland 1st Decl. ¶¶19-20, ECF 18-1.	CREW lacks sufficient knowledge to admit or deny this paragraph to the extent it discusses what HHS's "goal" is. <i>See Jud. Watch</i>, 449 F.3d at 145-46. In any event, HHS's purported goals and the potential future benefits that "can" arise from "streamlining" operations are not material facts, and are thus denied, because they do not establish that Defendants are, in actuality, carrying out their CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5. CREW further denies this paragraph because it is not supported by any actual data or analysis but is instead Defendants' self-serving characterization of generic potential benefits of centralization. CREW further denies this paragraph because it is contradicted by record evidence demonstrating that Defendants' purported streamlining, with consolidation of CDC FOIA responsibilities within OS FOIA, has been and will be inefficient. <i>See, e.g.</i>, Decl. of Griffis Decl. ¶¶ 13, 19-22, ECF No. 13-17; Decl. of Person Doe ¶¶ 9-11, ECF No. 13-16; Holzerland 1st Decl. ¶¶ 36-41, 44-50 (discussing OS FOIA's burgeoning workload and shrinking staff); Decl. of Person Doe ¶¶ 4-13, ECF No. 26-1 [hereinafter May 21 Doe Decl.]; Holzerland Suppl. Decl. ¶¶ 16, 22 (discussing technical issues); Defs.' Counter SOMF ¶¶ 27, 43-47, 68 (similar); <i>see id.</i> ¶¶ 48-51, 60 (admitting or failing to controvert workload and staffing issues); <i>id.</i> ¶¶ 52-53 (admitting to technical and other issues); Joint

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	Status Rep. at 1, <i>ICAN v. CDC et al.</i>, No. 25-cv-1331 (D.D.C. Aug. 20, 2025), ECF No. 13 (similar); Defs.' Counter SOMF ¶¶ 33, 35 (admitting that OS FOIA sent acknowledgment letters to FOIA requests for CDC records, automatically extending response time because of the "unusual circumstance" that requests seek records from different office); <i>id.</i> ¶¶ 61-65 (failing to controvert other requesters' experiences with CDC FOIA office closure); Decl. of Alex M. Goldstein in Support of Summ. J. ¶¶ 4-5, 10 n.2, ECF No. 33-2 (summarizing Defendants' delay letters and failures to upload CDC reading-room records) [hereinafter Goldstein MSJ Decl.]; Suppl. Goldstein MSJ Decl. ¶¶ 6-22, 25 (similar, and including analysis showing that OS FOIA has been worse than CDC FOIA across metrics); ECF Nos. 33-3–33-10 (declarations from affected CDC FOIA requesters) and supplemental declarations from these requesters and other requesters (Jordan Lassiter, Michael Morisy at Muckrock, and David Meyers at Poliscio) attached herein; <i>2025 Chief FOIA Officer Report, supra</i>, at Sections I-V (demonstrating that HHS FOIA operations have their own independent webpages providing instructions to new and existing requesters, case management systems and processes, technological capabilities, training procedures for personnel, outreach processes to provide guidance to requesters for complex or voluminous requests, use of contractors and other initiatives to handle FOIA workload needs, backlogs for FOIA requests and appeals, and processes to identify and post records subject to FOIA's proactive disclosure requirements to their respective agency reading rooms).
24. HHS' goal in streamlining FOIA operations is also to improve compliance	CREW lacks sufficient knowledge to admit or deny this paragraph to the extent it discusses

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and oversight because it facilitates monitoring and tracking of requests, ensuring adherence to statutory deadlines and legal requirements. It also simplifies the quarterly and annual FOIA reporting, as well as the auditing processes that the Department is subject to by oversight bodies. Holzerland 1st Decl. ¶21, ECF 18-1.	what HHS's "goal" is. <i>See Jud. Watch</i>, 449 F.3d at 145-46. In any event, denied for the reasons stated in the paragraph 23 response above.
25. HHS' goal in consolidation is to enhance the quality of HHS FOIA responses by reducing errors or legal challenges, reduces redundant training, technology, and staffing costs by pooling resources into a single, efficient FOIA processing operation. Holzerland 1st Decl. ¶22, ECF 18-1.	CREW lacks sufficient knowledge to admit or deny this paragraph to the extent it discusses what HHS's "goal" is. <i>See Jud. Watch</i>, 449 F.3d at 145-46. In any event, denied for the reasons stated in the paragraph 23 response above.
26. HHS' goal in streamlining is further to enable better and easier coordination and reduce wasteful intra-agency consults on FOIA releases, as well as with entities external to HHS, especially when it comes to other equity partners who have interests in records that are responsive to a FOIA request, and who must be consulted in advance of prospective release of records by HHS. Holzerland 1st Decl. ¶23, ECF 18-1.	CREW lacks sufficient knowledge to admit or deny this paragraph to the extent it discusses what HHS's "goal" is. <i>See Jud. Watch</i>, 449 F.3d at 145-46. In any event, denied for the reasons stated in the paragraph 23 response above.
27. HHS's intent is that the public will benefit when some FOIA units are consolidated because the Department's FOIA redactions, exemptions, legal reviews, and responses will be more consistent, timely, and accurate. A more centralized FOIA unit can provide a single point of contact for requesters, simplifying the customer service process for the public and in the long term, improving response times. This will avoid public confusion that may arise	CREW lacks sufficient knowledge to admit or deny this paragraph to the extent it discusses what HHS's "intent" is. <i>See Jud. Watch</i>, 449 F.3d at 145-46. In any event, denied for the reasons stated in the paragraph 23 response above.

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from navigating a voluminous number of specialized units. Holzerland 1st Decl. ¶24, ECF 18-1.	
28. As of May 21, 2025, CDC FOIA requests are being routed to offices within CDC to collect responsive records, including but not limited to records from CDC's Division of Healthcare Quality Promotion. Since May 21, 2025, OS-FOIA is handling OS (including CDC and ACF) caseload on a first in first out basis. Since May 21, 2025, OS-FOIA has executed searches on multiple CDC related cases, including Plaintiff's requests. Holzerland 4th Decl. ¶12.	CREW lacks sufficient knowledge to admit or deny this paragraph to the extent it discusses Defendants' routing of requests to collect CDC records and OS FOIA's searches for CDC records beyond this case. <i>See Jud. Watch</i>, 449 F.3d at 145-46. CREW lacks this knowledge because Defendants fail in the cited declaration paragraph or elsewhere to provide specific, nonconclusory representations demonstrating the routing of requests for CDC record collection and CDC record searches beyond this case, which, as of May 21, 2025, does not appear to have been occurring, <i>see, e.g.</i>, May 21 Doe Decl. ¶¶ 12-13; <i>cf.</i> Joint Status Rep. at 1, <i>ICAN v. CDC et al.</i>, No. 25-cv-1331 (D.D.C. June 20, 2025), ECF No. 12; Joint Status Rep. at 1-2, <i>Bloomberg L.P. v. CDC et al.</i>, No. 24-cv-3343 (D.D.C. May 28, 2025), ECF No. 15. CREW otherwise denies this paragraph with respect to the handling of its requests because Defendants admit that they did not begin searches on the requests until July 28, 2025, and because Defendants do not specify that processing of the requests and searches for them involved any routing to offices within CDC. <i>See</i> Holzerland 4th Decl. ¶¶ 27, 32, 37, 41, 46.
RIF'ed Employees Continued Access to FOIA Systems	
29. On April 1, 2025, some members of the CDC-FOIA staff who received RIF notices continued to access the CDC email and the CDC electronic FOIA tracking system through at least May 19, 2025. Holzerland 4th Decl. ¶23.	This paragraph does not state material facts; any purported electronic access by some CDC FOIA staff following the April 1 RIF is immaterial because Defendants admit that the CDC FOIA office has been shut down and OS FOIA has taken over the office's responsibilities, <i>see, e.g.</i>, Holzerland Suppl. Decl. ¶¶ 16-19, 22, and any access issues do

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	not bear at all on whether OS FOIA is carrying out CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5. CREW otherwise lacks sufficient knowledge to admit or deny this paragraph to the extent it discusses electronic access by some CDC FOIA staff through May 19. <i>See Jud. Watch</i>, 449 F.3d at 145-46.
30. Contrary to the claim that access ended on April 2, it has come to the Department's attention that at least five (5) RIF-affected CDC-FOIA employees continued to log into CDC computer systems throughout April and May, including as late as May 20, 2025. During this time, in spite of directions issued in the RIF notices prohibiting such actions, these individuals made use of employer's data, accessed e-mail, reviewed FOIA cases, and performed other system functions. <i>Holzerland</i> 4th Decl. ¶57.	This paragraph does not state material facts; any purported electronic access by some CDC FOIA staff following the April 1 RIF is immaterial because Defendants admit that the CDC FOIA office has been shut down and OS FOIA has taken over the office's responsibilities, <i>see, e.g., Holzerland Suppl. Decl.</i> ¶¶ 16-19, 22, and any access issues do not bear at all on whether OS FOIA is carrying out CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5. CREW otherwise lacks sufficient knowledge to admit or deny this paragraph to the extent it discusses purported electronic access by some CDC FOIA staff through May 20, <i>see Jud. Watch</i>, 449 F.3d at 145-46, except to note that the Doe declarant stated simply in April that CDC staff who received April 1 RIF notices lost computer access the next day (which is relevant only in that it supports that the CDC FOIA office no longer exists). <i>See Mem. Op.</i> 4 & n.1, ECF No. 29. The declarant did not offer representations about CDC FOIA employees' ability to access email or other system functions in the 30-45 days after this point.
31. On May 19, 2025, OS-FOIA personnel logged in one or more new FOIA requests seeking CDC records, and learned the CDC-FOIA system was at that time configured to notify ten (10) CDC-FOIA staff members via agency	This paragraph does not state material facts; any purported electronic access by some CDC FOIA staff following the April 1 RIF is immaterial because Defendants admit that the CDC FOIA office has been shut down and OS FOIA has taken over the office's

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email of the arrival of any few FOIA request. To Mr. Holzerland's knowledge, the recipients of the email notifications were on administrative leave as of that date. However, multiple recipients of the automated notification contacted the Department and CDC to alert the agency of their receipt and viewing of the automated messages. Notably, they could not have seen the notification had they not retained access to, and actively logged into, CDC systems. Mr. Holzerland retains a copy of the system-generated notification received in the wake of former CDC staff inquiries to the Department about the notification. Holzerland 4th Decl. ¶58.	responsibilities, <i>see, e.g.</i>, Holzerland Suppl. Decl. ¶¶ 16-19, 22, and any access issues do not bear at all on whether OS FOIA is carrying out CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5. CREW otherwise lacks sufficient knowledge to admit or deny this paragraph to the extent it discusses electronic access by some CDC FOIA staff. <i>See Jud. Watch</i>, 449 F.3d at 145-46.
32. On May 20, 2025, OS-FOIA personnel turned off the feature that alerted CDC-FOIA staff members of business activities via their government email addresses. Holzerland 4th Decl. ¶59.	This paragraph does not state material facts; any electronic access issues following the April 1 RIF are immaterial because Defendants admit that the CDC FOIA office has been shut down and OS FOIA has taken over the office's responsibilities, <i>see, e.g.</i>, Holzerland Suppl. Decl. ¶¶ 16-19, 22, and any access issues do not bear at all on whether OS FOIA is carrying out CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5. CREW otherwise lacks sufficient knowledge to admit or deny this paragraph to the extent it discusses electronic access actions taken by OS FOIA personnel. <i>See Jud. Watch</i>, 449 F.3d at 145-46.
33. Subsequently, contrary to Doe's claim that CDC-FOIA staff lost access to CDC FOIA systems on April 2, 2025 (ECF 13-16, Paragraph 5), on May 20, 2025, OS-FOIA discovered system access logs that showed that five (5) RIF-affected employees had continued to regularly log	This paragraph does not state material facts; any purported electronic access by some CDC FOIA staff following the April 1 RIF is immaterial because Defendants admit that the CDC FOIA office has been shut down and OS FOIA has taken over the office's responsibilities, <i>see, e.g.</i>, Holzerland Suppl.

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into the CDC-FOIA system well up to and including May 19, 2025. See Exhibit 5 attached hereto. In total, and as the attached access logs show, while still agency employees, these five (5) individuals took affirmative steps to not only access the CDC-FOIA system 455 times between April 1 and May 19, 2025, but also accessed FOIA cases, including matters in pending litigation. Holzerland 4th Decl. ¶60.	Decl. ¶¶ 16-19, 22, and any access issues do not bear at all on whether OS FOIA is carrying out CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5. CREW otherwise lacks sufficient knowledge to admit or deny this paragraph to the extent it discusses purported electronic access by some CDC FOIA staff through May 20, <i>see Jud. Watch</i>, 449 F.3d at 145-46, except to note that the Doe declarant stated simply in April that CDC staff who received April 1 RIF notices lost computer access the next day (which is relevant only in that it supports that the CDC FOIA office no longer exists). <i>See</i> Mem. Op. 4 & n.1, ECF No. 29. The declarant did not offer representations about CDC FOIA employees' ability to access email or other system functions in the 30-45 days after this point.
34. Moreover, in Doe's Supplemental Declaration dated May 22, 2025, Doe stated: "[f]urther, on information and belief, FOIA requests are currently not being routed to offices within CDC to collect responsive records," and "[o]n information and belief, since April 1, no FOIA requests have been routed to DHQP to collect responsive records." See ECF 26-1, ¶12 and ¶14, respectively. Paragraph 8 of Doe's Supplemental Declaration adds that "FOIA requests are currently not being routed to offices within CDC to collect responsive." <i>See</i> ECF 26-1, Paragraph 8. Doe also attached as Exhibit A to Doe's declaration, a CDC appeal response letter ("CDC#23-00600-FOIA") dated September 30, 2024, to Aaron Siri, Esq. at Informed Consent Action Network which Mr. Holzerland personally signed. See ECF 26-1, Pages 5-7 of 8. Holzerland 4th Decl. ¶61.	This paragraph is admitted; it quotes and characterizes a declaration paragraph and exhibit, which contain the best evidence of their respective contents. CREW respectfully refers the Court to these materials for a complete and accurate statement of their contents.

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35. Of the 10 individuals who received the May 19 automated system notification, two (2) identified for purposes of this declaration as “RIF’ed_1@cdc.gov” and “RIF’ed_2@cdc.gov” were among the five (5) who accessed the CDC-FOIA system as late as May 19. <i>See</i> Exhibit 5 attached hereto. One of these two identified here as “RIF’ed_2@cdc.gov” was the sole CDC-FOIA staff member who corresponded with Mr. Holzerland’s office regarding the above-mentioned appeal. Mr. Holzerland is aware of these communications because, , as the Department’s appellate authority for disclosure matters, he signed the response letter. Both Doe declarations raise concern that the CDC-FOIA RIF’ed staff, while still agency employees, took affirmative steps to not only access the CDC systems, but also to access FOIA cases, and share via the Doe Supplemental Declaration non-public information with Plaintiff, which signed the pleadings. As Exhibit 3 shows, the individual identified as “RIF’ed_2@cdc.gov” who worked on the CDC-FOIA appeal cited by Plaintiff in its supplemental Doe declaration (ECF 26-1, Paragraph 8) accessed the CDC-FOIA system 207 times during the period of April 1, 2025 at 9:23:55 a.m. through May 18, 2025 at 11:02:55 p.m. <i>See</i> Exhibit 3 attached hereto. Exhibit 4 shows the login times that the individual identified as “RIF’ed_2@cdc.gov” accessed the CDC-FOIA system, sometimes for indeterminate periods of time. <i>See</i> Exhibit 4 attached hereto. Holzerland 4th Decl. ¶62.	CREW lacks sufficient knowledge to admit or deny this paragraph to the extent it discusses the details of employee access by some CDC FOIA staff. <i>See Jud. Watch</i>, 449 F.3d at 145-46. In any event, the paragraph does not state material facts; any purported CDC FOIA staff access following the April 1 RIF is immaterial because Defendants admit that the CDC FOIA office has been shut down and OS FOIA has taken over the office’s responsibilities, <i>see, e.g.,</i> Holzerland Suppl. Decl. ¶¶ 16-19, 22, and any access issues do not bear at all on whether OS FOIA is carrying out CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5. Moreover, the appeal document attached as Exhibit A to the May 21 Doe declaration and referenced in this paragraph came from Compl., Exhibit 9, <i>ICAN v. CDC et al.</i>, No. 24-cv-3039 (D.D.C. Oct. 24, 2024), ECF No. 1-9; the final page of the Exhibit A to Doe declaration includes the ECF header (behind the ECF header for the instant case), demonstrating that it was publicly pulled from another case docket.
Work of OS-FOIA	
36. While a requester may submit a FOIA	This paragraph does not state material facts

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request to a particular HHS FOIA Office it often happens that the fulfillment of the request will involve other offices within the Department (often OS-FOIA), either to search for or review records. This could be the case for any topic that involves the Department. To be more specific, a request could be submitted to the former CDC-FOIA office for public health guidance development - for example, records pertaining to guidance on masking in the respiratory virus context - but the same request could be submitted to OS-FOIA for policy records pertaining to the identical topic. In another example, a request could be submitted to the former CDC-FOIA office for vaccine related records, or adverse event reports for COVID-19 vaccines, but the same request could be submitted to the FDA. A third example could involve submitting a request to the former CDC-FOIA office for disease surveillance data but the same request could be submitted to the National Institutes of Health (NIH). In a final example, a request could be submitted to the former CDC-FOIA office for records pertaining to grants for substance abuse prevention, but the same request could be submitted to CMS for funding substance abuse treatment programs. In fact, it is not uncommon for FOIA requesters to submit their FOIA request to several entities within the Department, and even when they do not do it, for the former CDC-FOIA office to refer requests to other HHS entities. other FOIA offices, including OS-FOIA. Holzerland Supp. Decl. ¶¶32-34, ECF 25-1.	and is thus denied because it provides hypothetical examples about overlapping FOIA requests and a broad assertion that it is not “uncommon” for requesters to submit requests to multiple Department entities or for referrals to other entities to occur, none of which bear on whether OS FOIA is carrying out CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5. CREW respectfully refers the Court to 45 C.F.R. §§ 5.23, 5.25 for the Department’s binding rules on FOIA request submissions and referrals. CREW otherwise lacks sufficient knowledge to admit or deny this paragraph. <i>See Jud. Watch</i>, 449 F.3d at 145-46.
37. The CDC is not the sole Department entity to deal with requests for data	This paragraph does not state material facts and is thus denied because it provides general

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related to disease outbreaks such as measles, COVID-19, influenza, foodborne illnesses, case counts, public health response records, epidemiological reports, school guidance, and so forth. Records related to research and scientific records also involve other entities or individuals across the Department, for example, research projects relevant to public health, research integrity documents, or even clinical trials. Holzerland Supp. Decl. ¶¶33, ECF 25-1.	examples about how CDC is not the sole entity to handle data requests related to disease outbreaks, which is not something that bears on whether OS FOIA is carrying out CDC FOIA responsibilities for all CDC FOIA requests, in accordance with FOIA and 45 C.F.R. Part 5. CREW otherwise lacks sufficient knowledge to admit or deny this paragraph. <i>See Jud. Watch</i>, 449 F.3d at 145-46.
38. Likewise, while a requester may submit a request to the former CDC-FOIA office, policy and decision-making documents, records of internal deliberations, including emails, memos or meeting minutes, especially those involving controversial decisions or external influences can involve other parts of the Department, and land at OS-FOIA. Records involving investigations of CDC's responses to public health crises, or media or public meeting, or food and waterborne illness, or personal privacy and medical records may also involve other FOIA offices, including OS-FOIA. Holzerland Supp. Decl. ¶¶34, ECF 25-1.	This paragraph does not state material facts and is thus denied because it simply provides hypothetical examples of how CDC FOIA requests may involve other parts of HHS, which do not demonstrate that OS FOIA can carry out and is carrying out CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5. CREW otherwise lacks sufficient knowledge to admit or deny this paragraph. <i>See Jud. Watch</i>, 449 F.3d at 145-46.
39. The Department's goal of continuing to meet its FOIA obligations also means that in compliance with 5 U.S.C. §552(a)(6), OS-FOIA actively communicates with requesters seeking complex data sets that involve review by multiple subject matter experts. For example, one request sought a full export of the Human Assurance Tracking System (HATS) that is maintained by the Office of the Assistant Secretary for Health (OASH). OS-FOIA coordinated discussions between the requester and	This paragraph does not state material facts and is thus denied because it simply discusses OS FOIA's communications with requesters seeking complex data sets and provides as a single example an OASH dataset, which says nothing about whether OS FOIA can carry out and is carrying out CDC FOIA responsibilities with respect to CDC data sets or any other CDC records, in accordance with FOIA and 45 C.F.R. Part 5. CREW otherwise lacks sufficient knowledge to admit or deny this paragraph. <i>See Jud.</i>

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HHS subject matter experts in April 2025 (after the April 1, 2025 FOIA reorganization had started) which led to a better understanding of the data sought. The requester received a sample data set to ensure the Department properly fulfills the request. Holzerland Supp. Decl. ¶9, ECF 25-1	<i>Watch</i>, 449 F.3d at 145-46.
40. As of September 3, 2025, the OS-FOIA program, inclusive of all work in its portfolio, had nearly 9,315 pending FOIA requests, approximately 640 pending FOIA appeals, and 262 pending FOIA consults. Holzerland 4th Decl. ¶92. As of September 3, 2025, OS-FOIA has taken the steps necessary to process 196 FOIA requests, meaning it has executed all of the routine steps in the workflow necessary to issuing final disposition letters in those cases. Holzerland 4th Decl. ¶92.	CREW lacks sufficient knowledge to admit or deny this paragraph, <i>see Jud. Watch</i>, 449 F.3d at 145-46, except to deny the “196 FOIA requests” figure as immaterial for the same reasons that it did in its response to paragraph 15 above.
41. As of May 1, 2025, the integration of the CDC-FOIA workload with the OS-FOIA workload remains ongoing. Holzerland 1st Decl. ¶37, ECF 18-1.	Admitted that Defendants’ integration work was ongoing as of May 1. CREW respectfully refers the Court to its response to paragraph 1 for what remains ongoing today.
42. Since April 1, 2025, the OS-FOIA program added approximately 1,782 pending FOIA requests formerly processed by the Administration for Children and Families, effective that same day. Holzerland 4th Decl. ¶92.	CREW lacks sufficient knowledge to admit or deny the figures in this paragraph, <i>see Jud. Watch</i>, 449 F.3d at 145-46, but it admits that OS FOIA has taken over responsibility for ACF FOIA requests.
43. In terms of litigation, as of April 1, 2025, the OS-FOIA program maintained a docket of approximately fifty-nine (59) FOIA litigations (thirty-four (34) of which are active and another twenty-five (25) that are pending closure) prior to the reorganization but has since assumed responsibility for an additional forty-six	CREW lacks sufficient knowledge to admit or deny the precise figures in this paragraph, <i>see Jud. Watch</i>, 449 F.3d at 145-46, but it admits, based on Defendants’ representations in this case, that OS FOIA had pending litigation as of April 1, 2025 and assumed responsibility for additional litigation and litigation productions as a consequence of the April 1

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(46) ongoing lawsuits to date from OpDivs impacted by the reorganization. The additional ongoing litigation productions assumed from other parts of HHS will be performed concurrent with the existing workload. As of September 30, 2024, the OS-FOIA program had 3,679 FOIA requests pending. Holzerland 1st Decl. ¶38-39, ECF 18-1.	reorganization. And CREW admits, based on HHS's annual report data, that OS FOIA had at least 3,020 pending FOIA requests at the end of the 2024 fiscal year. <i>See</i> 2024 Annual FOIA Report, <i>supra</i>, at Section XII.A.
44. Since April 1, 2025, when the FOIA reorganization started, OS-FOIA has issued eighty-nine (89) litigation productions, encompassing 46,407 pages reviewed and 40,993 released during this time. Holzerland Supp. Decl. ¶24, ECF 25-1. Holzerland 4th Decl. ¶94.	CREW lacks sufficient knowledge to admit or deny the precise figures in this paragraph, <i>see Jud. Watch</i>, 449 F.3d at 145-46, except to note that nowhere in the cited declaration portions or elsewhere do Defendants specify or demonstrate that any of these litigation productions involved CDC FOIA requests and cases, and, if so, that any of these productions involved anything more than issuing productions based on searches and other processing work already done by CDC FOIA staff prior to the April 1, 2025 CDC FOIA office closure.
45. As of September 3, 2025, OS-FOIA has taken the steps necessary to process one hundred ninety-six (196) FOIA requests, meaning it has executed all of the routine steps in the workflow necessary to issuing final disposition letters in those cases. Holzerland 4th Decl. ¶92.	CREW denies this paragraph as immaterial for the same reasons that it did in its response to paragraph 15 above. CREW otherwise lacks sufficient knowledge to admit or deny this paragraph. <i>See Jud. Watch</i>, 449 F.3d at 145-46.
46. Aside from litigation priorities and processing expedited requests, the Department continues to have additional, recurring short-term legal obligations pursuant to the FOIA. These include, but are not limited to, timely acknowledging incoming requests, adjudicating requests for expedited processing, and processing consultations on records sent to the Department from other agencies. Incoming FOIA consultations frequently	Admitted.

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relate to FOIA litigations where the outside agency is a named defendant, which therefore may have litigation deadlines requiring short-term – yet immediate – attention from HHS. Holzerland 1st Decl. ¶¶46-47, ECF 18-1.	
47. Since April 1, 2025, OS-FOIA is actively reviewing over 89,000 pages of records currently in the final stage of their review process by senior OS-FOIA personnel, and those records are responsive to over 617 pending FOIA requests. Because of the FOIA reorganization, these pages are now all treated as part of the OS-FOIA portfolio, whether CDC, Office of the Secretary, ACF, or ACL. In addition to the foregoing, in compliance with 5 U.S.C. §552(a)(2), OS-FOIA has made proactive disclosures on a publicly available website, available at Electronic Reading Room HHS.gov. For example, since April 1, 2025, when the FOIA reorganization started, the Department has publicly posted seventy (70) discrete items on its public facing FOIA reading room, including HHS FOIA Logs and HHS FOIA Litigation Releases. Holzerland Supp. Decl. ¶¶10-11, ECF 25-1, ECF 25-2. Holzerland 4th Decl. ¶95.	The figures in this paragraph are not in-and-of-themselves material facts, and CREW denies the figures on that basis, because: (1) nowhere in the cited declaration portions or elsewhere do Defendants specify or demonstrate how many of the referenced pages involved CDC FOIA requests, which is the only possible material fact because this case concerns whether OS FOIA is carrying out CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5; (2) nowhere do Defendants specify how many, if any, of the 70 items posted on the HHS reading room are CDC records, which again is the only possible material fact because this case concerns whether OS FOIA is carrying out CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5; (3) on Defendants' own terms, the 70 items figure likely includes some or all non-CDC records because it involves postings between April 1 and May 19, most of which was a period in which, as Defendants admit, they lacked even basic access to CDC systems, <i>see</i> Holzerland Suppl. Decl. ¶ 16; Joint Status Rep. at 1, <i>ICAN v. CDC et al.</i>, No. 24-cv-1000 (D.D.C. May 12, 2025), ECF No. 18 (admitted at Defs.' Counter SOMF ¶ 52); <i>see also</i> Joint Status Rep. at 1, <i>ICAN v. CDC et al.</i>, No. 25-cv-1331 (D.D.C. June 20, 2025), ECF No. 12 (admitted at Defs.' Counter SOMF ¶ 53); Joint Status Rep. at 1, <i>ICAN v. CDC et al.</i>, No. 25-cv-1331 (D.D.C. Aug. 20,

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	2025), ECF No. 13; Joint Status Rep. at 1-2, <i>Bloomberg L.P. v. CDC et al.</i>, No. 24-cv-3343 (D.D.C. July 29, 2025), ECF No. 17; and, (4) the 70 items figure does not appear to include any CDC records because the CDC reading room itself has not been updated since March and the HHS reading room does not appear to have new CDC records either, <i>see</i> Goldstein MSJ Decl. ¶ 10 & n.2; Goldstein MSJ Decl. Ex. H-L; Decl. of Alex M. Goldstein ¶ 21, ECF No. 13-3 [hereinafter Goldstein Decl.]; Suppl. Goldstein MSJ Decl. ¶¶ 20-22. CREW otherwise lacks sufficient knowledge to admit or deny this paragraph. <i>See Jud. Watch</i>, 449 F.3d at 145-46.
48. Aside from the ongoing reorganization of the Department, OS-FOIA has also experienced loss of staff. The loss of staff in OS-FOIA is mostly attributable to the planned completion of performance on two FOIA support contracts; one concluded on March 29, 2025, and the other concluded on April 11, 2025. Holzerland 1st Decl. ¶49, ECF 18-1.	CREW admits the first sentence of this paragraph. CREW denies the second sentence of this paragraph as immaterial; the precise reason behind staff losses is not a material fact because it does not bear on whether OS FOIA has the necessary manpower to carry out CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5. <i>See also</i> Suppl. Goldstein MSJ Decl. ¶¶ 6-7. CREW otherwise lacks sufficient knowledge to admit or deny the second sentence of this paragraph. <i>See Jud. Watch</i>, 449 F.3d at 145.
49. OPM has granted the Department a waiver to hire ten (10) employees to support FOIA operations. The ten (10) employees hired under the OPM waiver will serve in roles defined to reflect the Secretary's vision for the future of HHS. These positions are not intended as restorations of previously eliminated roles; rather they carry distinct	CREW lacks sufficient knowledge to admit or deny this paragraph, <i>see Jud. Watch</i>, 449 F.3d at 145-46, except to note that HHS's plan to hire 10 employees is not a material fact because, as Defendants explain in the paragraph, the additional planned employees are not meant to be restorations of the eliminated CDC FOIA roles but will instead carry "distinct responsibilities." Accordingly,

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responsibilities and qualifications that align with the Department's current direction and priorities in the reorganization. Holzerland 4th Decl. ¶107.	they are immaterial to the question at hand in this case—whether OS FOIA can carry out and is carrying out CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5. Relatedly, this paragraph is immaterial because it does not contain any analysis of how the plan to hire 10 additional employees with “distinct” responsibilities will address the loss of OS FOIA staff (discussed in paragraph 48 above) and the loss of 23 CDC FOIA staff (discussed, <i>inter alia</i>, at Defs.’ Counter SOMF ¶¶ 3, 6), which has impaired and will impair CDC FOIA work, as discussed in the response to paragraph 23 above. Defendants themselves admit that there have been RIFs of “FOIA staff at ACF, ACL, CDC, FDA, NIH, and SAMHSA,” that OS FOIA will have to take on additional work as a result, and that this will “necessitat[e] completion of statutorily-mandated daily work and litigation, <i>far beyond the capacity of the current OS FOIA team.</i>” Suppl. Goldstein MSJ Decl. ¶ 6 (emphasis added); <i>see also</i>, <i>e.g.</i>, Holzerland 1st Decl. ¶¶ 36-41, 44-50 (discussing OS FOIA’s burgeoning workload and shrinking staff).
50. In terms of fee waivers, the OS-FOIA statistics cited in the <i>2024 Annual FOIA Report</i> at Section VIII.B do not exist without context, and fees were so infrequently at issue in OS-FOIA cases that OS-FOIA collected \$0 in fees during the specified timeframe. Holzerland 4th Decl. ¶96.	CREW lacks sufficient knowledge to admit or deny this paragraph, <i>see Jud. Watch</i>, 449 F.3d at 145-46, except to note that Defendants’ own data, including analysis of fee waiver adjudications and other metrics, shows that OS FOIA has been worse than CDC FOIA in handling FOIA responsibilities for years and thus is ill-equipped to take over CDC FOIA responsibilities, <i>see</i> Suppl. Goldstein MSJ Decl. ¶ 25.
51. Having resolved technological complexities, the Department is taking	CREW lacks sufficient knowledge to admit or deny the figure stated in this paragraph. <i>See</i>

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actions consistent with its statutory obligations under the FOIA relative to approximately 220 new FOIA requests seeking CDC records received since April 1, 2025. Typically, this involves logging new requests, assigning them individual tracking numbers, issuing acknowledgment letters, and tasking those requests out to program offices likely to maintain responsive records, as applicable, to conduct searches for responsive records. Holzerland Supp. Decl. ¶19, ECF 25-1.	<i>Jud. Watch</i>, 449 F.3d at 145-46. CREW admits the “typical” FOIA process described in the second sentence of this paragraph but otherwise denies that this typical process demonstrates that Defendants are, as stated in conclusory fashion in the first sentence, actually properly handling the new CDC FOIA requests received since April 1, 2025. Moreover, whether the Department is acting consistent with statutory obligations is a legal conclusion, not a material fact to which CREW must respond.
FOIA Appeals	
52. Prior to the April 1, 2025 reorganization, OS-FOIA reviewed and approved FOIA appeals of the Operating Divisions of the various FOIA offices, save for the exceptions for FDA and CMS, including, but not limited, to appeals that OS-FOIA received regarding the initial determinations of FOIA requests that had been made by the former CDC-FOIA. Appeals require reviewing the initial FOIA request, the administrative record of the processing of the initial request, including review of any rationale or reasoning for the initial response. This means that the HHS FOIA appellate authority (which is OS-FOIA) must understand the specific subject matter covering a vast array of topics to evaluate whether the office that issued the initial determination applied FOIA exemptions to the records at issue in a given case correctly, and must understand the Operating Division’s structure and programs in enough detail to dispose of procedural issues, such as determining whether an Operating Division conducted an adequate search for responsive records. The staff of OS-	This paragraph is admitted to the extent that, in the first sentence, it explains OS FOIA’s handling of appeals. This paragraph is denied to the extent that it asserts or suggests that OS FOIA’s appellate experience necessarily means OS FOIA “must understand the specific subject matter covering a vast array of topics to evaluate whether the office that issued the initial determination applied FOIA exemptions to the records at issue in a given case correctly, and must understand the Operating Division’s structure and programs in enough detail to dispose of procedural issues, such as determining whether an Operating Division conducted an adequate search for responsive records.” OS FOIA’s appellate experience, and the “execut[ion]” of its appellate “duties,” is fundamentally different from, and immaterial to, the substantial initial legwork to process the FOIA requests of an Operating Division such as CDC and generate the administrative record on review. The cited declaration paragraph says nothing about OS FOIA’s training or ability to take over that initial processing legwork on behalf of CDC, <i>compare</i> Holzerland Suppl. Decl. ¶ 30, <i>with</i>

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FOIA has been able execute such duties for years prior to the April 1, 2025 reorganization. Holzerland Supp. Decl. ¶30, ECF 25-1.	May 21 Doe Decl. ¶¶ 5-10, and thus carry out CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5. In fact, the cited declaration paragraph affirmatively indicates that OS FOIA is <i>not</i> already equipped to do so by virtue of its appellate experience, since the paragraph indicates that OS FOIA's appellate review depends on the determinations and administrative record compiled by offices like the CDC FOIA office, which no longer exists.
53. The FOIA appeals which OS-FOIA oversees for the Department often involve complex legal and policy questions, such as whether exemptions were properly invoked for the records at issue, whether the issuing FOIA office met its burden in establishing foreseeable harm if exemptions were claimed, along with procedural issues. The appellate authority must have the expertise to interpret and apply the same statute and regulations to the records as the office that made the initial determination, to ensure consistency and compliance under FOIA. With inadequate training in the subject matter, in handling the appeal, the centralized office (OS-FOIA) risks misinterpreting records, overturning valid decisions, or upholding incorrect ones, which could lead to legal challenges or loss of trust. If OS-FOIA staff lacked such expertise, it would not have been able to handle the appeals of the various Departmental FOIA offices, including of the former CDC-FOIA office, for years before the April 1, 2025, reorganization. Holzerland Supp. Decl. ¶31, ECF 25-1.	CREW lacks sufficient knowledge to admit or deny the first sentence in this paragraph, regarding the nature of FOIA appeals which OS FOIA oversees. <i>See Jud. Watch</i>, 449 F.3d at 145-46. In any event, the first sentence and the remaining sentences are denied because OS FOIA's appellate authority and experience are immaterial, for the reasons explained in the response to paragraph 52 above.
54. In Fiscal Year 2022, the OS-FOIA program received two hundred eighty-	CREW lacks sufficient knowledge to admit or deny the CDC-specific appeals numbers in

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eight (288) appeals, one hundred seventy-seven (177) of which, or approximately sixty-two percent (62%) of which arose from CDC-FOIA determinations. This trend continued in Fiscal Year 2023, with one hundred forty-nine (149) of two hundred eighty-seven (287), or fifty-two percent (52%) CDC appeals, and in Fiscal Year 2024, one hundred thirty-five (135) of two hundred ninety (290), or forty-seven percent (47%). The balance of the appeals each year stemmed from the work of all other FOIA offices served combined. Holzerland 4th Decl. ¶71.	this paragraph. <i>See Jud. Watch</i>, 449 F.3d at 145-46. CREW admits the other figures; those are available at <i>HHS Fiscal Year 2022 Freedom of Information Annual Report</i>, at Section VI.A, HHS, https://www.hhs.gov/foia/reports/annual-reports/2022/index.html, <i>HHS Fiscal Year 2023 Freedom of Information Annual Report</i>, at Sections VI.A, HHS, https://www.hhs.gov/foia/reports/annual-reports/2023/index.html, and <i>2024 Annual FOIA Report</i>, <i>supra</i>, at Section VI.A. CREW respectfully refers the Court to the reports for a complete and accurate statement of their contents.
55. As an example of the statement in Row 20 above, the relative quality of the former CDC-FOIA office's determinations was uneven in Fiscal Year 2024, as evidenced by the fact OS-FOIA appeal staff recommended affirming CDC-FOIA actions in thirteen (13) cases out of one hundred thirteen (113) reviewed, or approximately twelve percent (12%) of those reviewed during the year. Conversely, Mr. Holzerland completely overturned Operating Division determinations in sixty-six (66) cases last year, thirty-seven (37) of which were CDC-FOIA determinations, comprising fifty-six (56%) of the total, with twenty-nine (29) such outcomes scattered across the balance of Operating Division cases reviewed during the timeframe. Holzerland 4th Decl. ¶72.	CREW lacks sufficient knowledge to admit or deny the CDC-specific appeals numbers in this paragraph. <i>See Jud. Watch</i>, 449 F.3d at 145-46. In any event, the paragraph is immaterial and denied, even with the figures accepted as true, for several reasons. First, the HHS FOIA annual reports, cited in paragraph 54, do not include CDC-specific appeal figures or breakdowns of appeals for other Operating Divisions for which OS FOIA handles appeals—indicating that Defendants do not consider something like CDC FOIA appellate affirmances or reversals to be a legitimate and worthwhile basis to assess CDC FOIA performance (alongside the litany of benchmarks they use to assess performance) in their annual FOIA reports. The metrics that Defendants do actually collect show that OS FOIA has been worse than CDC FOIA in handling FOIA responsibilities for years and thus is ill-equipped to take over CDC FOIA responsibilities, <i>see</i> Suppl. Goldstein MSJ Decl. ¶ 25.

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	Second, the combination of the data Defendants provide (at Holzerland 4th Decl. ¶¶ 71-73) and the publicly available data in Sections VI.A and VI.B of their 2023-2024 FOIA annual reports (cited in the response to paragraph 54 above) show that CDC FOIA fared better than OS-reviewed components on appeal. <i>See</i> Suppl. Goldstein MSJ Decl. ¶ 24 (noting that OS FOIA affirmed 6 percent of the non-CDC appeals that it handled versus 12 percent of CDC appeals, and that CDC FOIA had a 13/37 (32%) affirm/reverse ratio whereas others had a 6/29 (21%) affirm/reverse ratio); <i>id.</i> (noting that CDC FOIA had comparable affirmance rate and higher affirm/reverse ratio compared to other components). Third, OS FOIA's appellate review of CDC FOIA work says nothing about its ability to itself carry out CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5.
56. While acknowledging that past performance is not necessarily an indicator of future results in a given FOIA program, similarly, during Fiscal Year 2023, OS-FOIA staff was in a position to recommend affirming twenty-four (24) of one hundred fifteen (115) CDC-FOIA appeal cases, or eighteen percent (18%) of the total. Here, these statistics are indicators the former CDC-FOIA program may have emphasized case closure over quality and legal compliance to the detriment of a significant segment of the customer base we served during the timeframe. Holzerland 4th Decl. ¶73.	CREW lacks sufficient knowledge to admit or deny the CDC-specific appeals numbers in this paragraph. <i>See Jud. Watch</i>, 449 F.3d at 145-46. In any event, the paragraph is immaterial and denied, even with the figures accepted as true, for the same reasons stated in the response to paragraph 55 above. Additionally, Defendants' assertions as to what the former CDC program "may have emphasized" is additionally immaterial and denied because it is speculative, lacks any statistical support or other support in the annual reports cited in the response to paragraph 53 or the 2025 <i>Chief FOIA Officer Report</i>, <i>supra</i>, and again says nothing about whether OS FOIA can carry out and is carrying out CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5.
57. During the timeframe in question, CDC-	CREW lacks sufficient knowledge to admit or

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FOIA defended application of e-mail retention policies that this Court determined were inconsistent with the Federal Records Act and National Archives and Records Administration (NARA) guidance and received an adverse ruling in a related FOIA matter. Based on Mr. Holzerland's recollection, at least one of the overturned CDC-FOIA determinations was at issue in the case. https://thehill.com/policy/healthcare/4821251-judge-cdc-email-policy-likely-violates-federal-law/. In a lawsuit filed by America First Legal Foundation, the Honorable District Judge Rudolph Contreras ruled that the CDC has likely been breaking federal law by deleting former employees' emails soon after they leave the agency. Holzerland 4th Decl. ¶74.	deny the recitation in this paragraph of a single FOIA matter. <i>See Jud. Watch</i>, 449 F.3d at 145-46. In any event, even accepted as true, the paragraph is denied as immaterial; CDC's handling of a single FOIA matter says nothing about whether OS FOIA is carrying out CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5. <i>See also</i> Holzerland 4th Decl. ¶ 75 (explaining that he did not "wish to diminish former agency staff members' service or efforts, or minimize the positive outcomes achieved in individual cases"). And again, the relevant FOIA metrics show that OS FOIA has been worse than CDC FOIA in handling FOIA responsibilities for years and thus is ill-equipped to take over CDC FOIA responsibilities. <i>See</i> Suppl. Goldstein MSJ Decl. ¶ 25.
Training and Skills	
58. Even prior to the reorganization, the OS-FOIA program already oversaw departmental initiatives to ensure efficient and appropriate FOIA compliance and as detailed in the 2025 HHS Chief FOIA Officer Report, and in other artifacts, its staff is well-trained and prepared to respond to FOIA requests on behalf of HHS, regardless of subject matter of the records. <i>See</i>, 2025 Chief FOIA Officer Report HHS HHS.gov. Due to its mission and extensive experience issuing determinations on appeals, the FOIA staff best equipped to handle FOIA reviews for the Department is the OS-FOIA. Holzerland Supp. Decl. ¶35, ECF 25-1.	The first paragraph is admitted to the extent it discusses OS FOIA's role administering and overseeing FOIA initiatives under the supervision of the Deputy Agency Chief FOIA Officer, responding to requests within the custody of the Office of the Secretary Staff Divisions, responding, in certain circumstances, to requests involving other Operating Divisions, and "review[ing]" on appeal FOIA matters; CREW respectfully refers the Court to 45 C.F.R. § 5.3 for a complete and accurate statement of OS FOIA's role, and to the cited report, <i>2025 Chief FOIA Officer Report, supra</i>, as well for a complete and accurate statement of its contents. CREW lacks sufficient knowledge to admit or deny the paragraph to the extent it discusses OS FOIA's training to handle FOIA requests on behalf of the department, <i>see Jud. Watch</i>,

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	449 F.3d at 145-46, except to admit that, as Section II of the <i>2025 Chief FOIA Officer Report, supra</i>, details, FOIA professionals at the various HHS FOIA offices had internal and external training opportunities, and the offices each provided their own training activities. For the reasons stated in response to paragraphs 15, 23, and 52, this paragraph is denied to the extent it states or suggests that, due to OS FOIA's mission and experience handling determinations and appeals, it can handle and is "prepared" to handle all requests on behalf of the Department and is "best equipped" to do so.
59. All FOIA specialists at HHS apply the same legal and regulatory standards, and FOIA professionals across HHS take internal and external training on applying same. Even prior to the reorganization, the OS FOIA program already oversaw departmental initiatives to ensure efficient and appropriate FOIA compliance and as detailed in the 2025 HHS Chief FOIA Officer Report, and in other artifacts, its staff is well-trained and prepared to respond to FOIA requests on behalf of HHS, regardless of subject matter of the records. <i>See</i>, 2025 Chief FOIA Officer Report HHS HHS.gov. Due to its mission and extensive experience issuing determinations on appeals, the FOIA staff best equipped to handle FOIA reviews for the Department is the OS-FOIA staff. Holzerland Supp. Decl. ¶36, ECF 25-1. Holzerland 4th Decl. ¶109.	CREW lacks sufficient knowledge to admit or deny the first sentence of this paragraph to the extent it discusses what all FOIA specialists at HHS do, <i>see Jud. Watch</i>, 449 F.3d at 145-46, except to admit that, as Section II of the <i>2025 Chief FOIA Officer Report, supra</i>, details, FOIA professionals at the various HHS FOIA offices had internal and external training opportunities, and the offices each provided their own training activities. CREW respectfully refers the Court to the report for a complete and accurate statement of its contents. CREW admits the first clause of the second sentence and respectfully refers the Court to Section II of the <i>2025 Chief FOIA Officer Report, supra</i>, for a complete and accurate statement of OS FOIA training initiatives. For the reasons stated in response to paragraphs 15, 23, and 52, this paragraph is denied to the extent it states or suggests that, due to OS FOIA's mission and experience handling determinations and appeals, it can handle and is "prepared" to handle all requests

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	on behalf of the Department and is "best equipped" to do so.
Plaintiff's FOIA Requests	
60. On April 1, 2025, CREW submitted an expedited FOIA request to CDC for "[a]ll records from January 20, 2025 to the date this request is processed that mention, reference, or relate to the CDC's decision not to release an assessment by the Center for Forecasting and Outbreak Analytics that addressed the risk of catching measles in relation to the vaccination rates of nearby areas." Holzerland 1st Decl. ¶27, ECF 18-1. ("Request A–Measles")	Admitted. CREW respectfully refers the Court to ECF No. 13-4 for a complete and accurate statement of the request's contents.
61. On April 1, 2025 CREW submitted an expedited FOIA request to CDC for (a) "[a]ll communications sent or received by CDC Public Liaison Bruno Viana, CDC/ATSDR FOIA Officer Roger Andoh, or any other employees in the CDC/ATSDR FOIA Office that mention, reference, or relate to the decision to place the CDC FOIA office on administrative leave on April 1, 2025"; (b) "[a]ll communications sent or received by any CDC employee outside the CDC/ATSDR FOIA Office that mention, reference, or relate to the decision to place the CDC FOIA office on administrative leave on April 1, 2025"; and (c) "[a]ll memoranda, directives, or other final records relating to the decision to place the CDC FOIA office on administrative leave on April 1, 2025." Holzerland 1st Decl. ¶28, ECF 18-1. ("Request B–AdminLeave")	Admitted. CREW respectfully refers the Court to ECF No. 13-5 for a complete and accurate statement of the request's contents.
62. On April 1, 2025 CREW submitted an expedited FOIA request to CDC for (a) "[a]ll communications that mention,	Admitted. CREW respectfully refers the Court to ECF No. 13-6 for a complete and accurate statement of the request's contents.

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reference, or relate to the deliberation of or decision to place the CDC FOIA office on administrative leave on April 1, 2025, received by CDC staff and sent by any individual with an email address associated with DOGE, U.S. DOGE Service, or the Office of Personnel Management (“OPM”); and (b) “[a]ll memoranda, directives, and other final records relating to the deliberation of or decision to place the CDC FOIA office on administrative leave on April 1, 2025 received by CDC staff and sent by any individual with an email address associated with DOGE, U.S. DOGE Service, or the Office of Personnel Management (“OPM”).” Holzerland 1st Decl. ¶29, ECF 18-1. (“Request C–DOGE/OPM”)	
63. On April 1, 2025 CREW submitted an expedited FOIA request to CDC for records, from January 20 to the date the request is processed, of (a) “[a]ll guidance, communications, memoranda, directives, or policies describing CDC’s plans to respond to, process, and otherwise manage open FOIA requests and future FOIA requests”; and (b) “[a]ll guidance, communications, memoranda, directives, or policies describing CDC’s plans to otherwise comply with its statutory responsibilities under FOIA.” Holzerland 1st Decl. ¶30, ECF 18-1. (“Request D–FOIA Plans”)	Admitted. CREW respectfully refers the Court to ECF No. 13-7 for a complete and accurate statement of the request’s contents.
64. On April 1, 2025 CREW submitted an expedited FOIA request to CDC for records, from January 20 to the date the request is processed, of “[a]ll guidance, communications, memoranda, directives, policies, or other final directives relating to CDC’s plan to take down its FOIA	Admitted. CREW respectfully refers the Court to ECF No. 13-8 for a complete and accurate statement of the request’s contents.

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portal website at https://foia.cdc.gov/"; and (b) "[a]ll guidance, communications, memoranda, directives, policies, or other final directives relating to CDC's plan to provide an automated email response to requesters' FOIA emails." Holzerland 1st Decl. ¶31, ECF 18-1. ("Request E-Portal/Emails")	
65. To the extent that Plaintiff received automated replies from CDC email addresses on April 1, 2025, these communications were not authorized by the Department. These automated replies were instead unauthorized communications that were presumably set up by former CDC-FOIA employees after they had received their Reduction In Force (RIF) notices. Since the time these unauthorized automated emails were issued however, the Department has worked with its information technology partners to address the problem and as of May 6, 2025, OS-FOIA controls the former CDC-FOIA database, its tracking system, and the former CDC-FOIA email addresses. Holzerland Supp. Decl. ¶¶14, 16, ECF 18-1.	This paragraph is denied as immaterial to the extent it contains representations about whether communications were "authorized" or not. That fact is not material to the resolution of the issues in this case, <i>i.e.</i>, whether OS FOIA is carrying out CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5. <i>See also</i> Mem. Op. 4 n.1, ECF No. 29. CREW otherwise lacks sufficient knowledge to admit or deny this paragraph, <i>see Jud. Watch</i>, 449 F.3d at 145-46, except to note the access issues discussed in the response to paragraph 47 above.
66. At the time that Plaintiff submitted its requests, the CDC's website stated: "A FOIA request must be e-mailed to CDC at FOIARequests@cdc.gov." As of May 2, 2025, when a requester attempts to submit a FOIA request directly to the former CDC-FOIA email address, the following message appears: "For all FOIA requests, please go to the HHS FOIA Office website: https://www.hhs.gov/foia/index.html." <i>Available</i> at Freedom of Information Act FOIA CDC. In clicking that link, the FOIA submitter is then directed to the	Admitted. CREW respectfully refers the Court to the cited exhibit for a complete and accurate statement of its contents. CREW additionally avers that, as of October 17, 2025, the HHS and CDC FOIA portals are not functional. <i>See</i> Suppl. Goldstein MSJ Decl. ¶¶ 26-28.

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HHS FOIA webpage that encouraged requesters to submit requests online via the Public Access Link (PAL). The requesters is thereafter redirected to a webpage that states "Welcome to the Health and Human Services - Online FOIA Public Access Link." <i>Available at HHS FOIA Submission Site-Home. See ECF 25-2, Exh.4, Page 5 of 5. Holzerland 4th Decl. ¶21.</i>	
67. Between April 1 and May 2, 2025, the former CDC FOIA webpage was updated in substantive ways and the page now redirects requesters to the OS-FOIA webpage for service. The former CDC-FOIA request submission weblink no longer exists, and the submission link on CDC.gov takes requesters seeking CDC records to the OS-FOIA submission portal. Holzerland Supp. Decl. ¶¶17, 18, ECF 18-1.	Admitted. CREW respectfully refers the Court to the webpages cited in the declaration paragraphs for a complete and accurate statement of the webpages' contents. CREW additionally avers that, as of October 17, 2025, the HHS and CDC FOIA portals are not functional. <i>See Suppl. Goldstein MSJ Decl. ¶¶ 26-28.</i>
68. On April 4, 2025, prior to the statutory timeframe for response to the requests for expedited processing, and far in advance of the statutory timeframe for response to the underlying FOIA requests themselves expiring, Plaintiff filed the instant Complaint for Injunctive and Declaratory Relief. ECF 1.	Admitted as to the date of filing of this lawsuit. Otherwise, this paragraph is denied because it states a legal conclusion regarding statutory time frames, which is not a material fact to which CREW must respond. Additionally, the assertions regarding statutory timeframes are denied as immaterial because they will not affect the outcome of the suit and resolution of whether Defendants are carrying out their CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5. In the cross-motions at issue, Defendants do not oppose summary judgment or seek dismissal or summary judgment on the basis that CREW sued "prior to the statutory timeframe for response to the requests for expedited processing" and prior to "the statutory timeframe for response to the underlying FOIA requests themselves expiring."

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	Finally, the timeframe assertions are denied as incorrect because CREW brought suit challenging the auto-denial of its expedited processing requests. <i>See</i> Goldstein Decl. ¶¶ 14-15; Compl. for Inj. & Decl. Relief ¶¶ 55-59, ECF No. 1.
69. Plaintiff asserted in each expedited FOIA request that “CREW routinely disseminates information obtained through FOIA to the public in several ways. For example, CREW’s website receives hundreds of thousands of page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. These reports frequently rely on government records obtained through FOIA. CREW also posts the documents it obtains through FOIA on its website. CREW is a credible requestor and disseminator of information often relied on by major media outlets.” ECF 13-4, ECF 13-5, ECF 13-6, ECF 13-7, ECF 13-8.	Admitted. CREW respectfully refers the Court to the cited documents for a complete and accurate statement of their contents.
70. In the five (5) FOIA requests that Plaintiff submitted on April 1, 2025, Plaintiff sought expedited processing, for “time-sensitive records relating to CDC’s assessment of measles risks, the closure of its FOIA office, DOGE’s involvement in that closure, and Defendants’ plans (if any) to comply with their statutorily mandated FOIA duties.” Holzerland 1 st Decl. ¶26, ECF 18-1.	Admitted. CREW respectfully refers the Court to the requests (ECF Nos. 13-4, 13-5, 13-6, 13-7, and 13-8) for a complete and accurate statement of their contents.
71. Under FOIA, the Department may afford expedited processing to a requester whenever the requester demonstrates a	This paragraph states a legal conclusion regarding expedited processing, which is not a material fact to which CREW must respond.

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“compelling need,” which a requester would typically show in one of two ways: (1) by establishing that his or her failure to obtain the records on an expedited basis “could reasonably be expected to pose an imminent threat to the life or physical safety of an individual,” or (2) in the case of a request made by “a person primarily engaged in disseminating information,” by demonstrating that there is an “urgency to inform the public concerning actual or alleged Federal Government activity.” §552(a)(6)(E)(v)(I), (II). Holzerland 1st Decl. ¶34, ECF 18-1.	Nonetheless, CREW admits that this paragraph quotes 5 U.S.C. § 552(a)(6)(E)(v), which contains the best evidence of its contents. CREW respectfully refers the Court to the statutory provision for a complete and accurate statement of its contents, and it denies any characterization by Defendants that is inconsistent with those contents.
72. On May 1, 2025, OS-FOIA issued responses to Plaintiff’s respective requests for expedited processing, granting Plaintiff expedited processing for the request referenced in Paragraph 27 of Holzerland 1st Decl. on the measles, and denying expedited processing for the other four FOIA requests. Holzerland 1st Decl. ¶35, ECF 18-1, ECF 18-2.	Admitted. CREW respectfully refers the Court to the cited exhibit (ECF No. 18-2) for a complete and accurate statement of OS FOIA’s expedited processing responses.
73. The Department uses multitrack processing and generally processes FOIA requests on a first-in, first-out basis. Holzerland 1st Decl. ¶41, ECF 18-1. Moving Plaintiff’s FOIA requests to the very top of the queue would be unfair to and disadvantage other FOIA requesters, who have equally important requests for records, and who have been waiting to have their requests processed. Were Plaintiff’s FOIA requests to jump to the front of the processing queue as a result of this lawsuit, the Department would nonetheless encounter competing FOIA priorities in the near term as we streamline to ensure a more effective	CREW lacks sufficient knowledge to admit or deny the first sentence of this paragraph. <i>See Jud. Watch</i>, 449 F.3d at 145-46. CREW denies the second and third sentences of this paragraph to the extent that they presume that CREW seeks to move to the very top of the queue; that characterization lacks any factual support either at the time CREW sought expedited processing or at any point between then and now. Additionally, the two sentences are denied to the extent they rest on the premise, true at the time of the cited declaration paragraphs but not true since CREW amended its Complaint (ECF No. 31), that CREW is seeking expedited processing of all five of its April 1 FOIA requests; the only

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FOIA program. Holzerland 1st Decl. ¶¶41-44, ECF 18-1.	request on which CREW is seeking expedited processing is the one on which Defendants granted expedition, <i>see</i> First Am. Compl. for Inj. & Decl. Relief ¶¶ 56, 78, ECF No. 31; Goldstein MSJ Decl. ¶¶ 4-5, per paragraph 76 above. CREW otherwise lacks sufficient knowledge to admit or deny the second and third sentences in this paragraph to the extent they discuss the Department's competing FOIA priorities and desires for a more effective FOIA program. <i>See Jud. Watch</i>, 449 F.3d at 145-46. Such priorities and desires are immaterial because they do not bear on whether Defendants are carrying out CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5.
74. The processing times for OS-FOIA requests can vary from request to request because the records that may be processed from case to case can present different complexities relative to applying the law. The time needed depends on factors such as, whether responsive records are located or identified, the need to search in multiple offices or systems, the relative complexity of responsive records (for example whether they contain sensitive information requiring multiple levels of review); whether other agencies must be consulted before release, and the current volume of FOIA requests already in the queue. Due to these variables, OS-FOIA does not have –and cannot realistically maintain – a single uniform processing rate that applies to all requests. Instead, OS-FOIA processes requests in the order they are received within each processing track (e.g., simple, complex, expedited) and makes every effort to move them forward as efficiently as possible under the circumstances. Holzerland 4th Decl.	CREW lacks sufficient knowledge to admit or deny the characterizations in this paragraph regarding how processing times can vary, what factors can influence times, and how, due to these variables, OS FOIA cannot and does not maintain a single uniform processing rate and processes requests in the order they are received. <i>See Jud. Watch</i>, 449 F.3d at 145-46. In any event, this paragraph does not state material facts; general processing time considerations and OS FOIA's self-serving characterization of its effort to move requests forward "as efficiently as possible under the circumstances" do not bear on whether OS FOIA is, in actuality and under the circumstances Defendants created by closing the CDC FOIA office and transferring its responsibilities to OS FOIA, carrying out CDC FOIA responsibilities, in accordance with FOIA and 45 C.F.R. Part 5.

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¶14.	
75. On May 1, 2025, OS-FOIA acknowledged receipt of Request A–Measles and assigned it reference number 25-10001-FOIA-CDC. Holzerland 4 th Decl. ¶24.	Admitted. CREW respectfully refers the Court to ECF No. 18-2 for a complete and accurate statement of OS FOIA's acknowledgment letter. Additionally, CREW respectfully refers the Court to the June 23, 2025, additional acknowledgment letter that Defendants sent for a complete and accurate statement of its contents. <i>See</i> Defs.' Counter SOMF ¶ 33; Goldstein MSJ Decl. ¶ 4.
76. On May 1, 2025, OS-FOIA granted expedited processing for Request A–Measles , which now stands at 70 th out of 70 expedited requests. Holzerland 4 th Decl. ¶25.	This paragraph is admitted except to the extent it states where the request sits in OS FOIA's processing queue. CREW respectfully refers the Court to ECF No. 18-2 for a complete and accurate statement of OS FOIA's expedited processing responses on the April 1 requests. CREW lacks sufficient knowledge to admit or deny this paragraph with respect to OS FOIA's processing queue and where exactly the request sits, <i>see Jud. Watch</i> , 449 F.3d at 145-46, except to note that Defendants stated on May 19, 2025, that the request stood 70th out of 70 expedited requests, <i>see</i> Holzerland Suppl. Decl. ¶ 26, and since then CREW has submitted additional expedited requests, <i>see</i> Goldstein MSJ Decl. ¶ 11; Suppl. Goldstein MSJ Decl. ¶ 18, as, presumably, have others.
77. On July 28, 2025, OS-FOIA started the search for records responsive to Request A- Measles . As a result of the search, OS-FOIA located eleven (11) emails as potentially responsive records. OS-FOIA has not started the review of the records, but OS-FOIA plans to update Plaintiff on or before September 30, 2025 about its review of the records and will issue a response letter after processing the records. Holzerland 4 th Decl. ¶¶27-28.	CREW lacks sufficient knowledge to admit or deny this paragraph to the extent it discusses when OS FOIA began its search for records, what it located, and its intentions and plans. <i>See Jud. Watch</i> , 449 F.3d at 145-46. CREW avers that it received a response letter on September 30, 2025, and it respectfully refers the Court to the letter for a complete and accurate statement of its contents. <i>See</i> Suppl. Goldstein MSJ Decl. ¶ 4.

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78. On May 1, 2025, OS-FOIA acknowledged receipt of Request B–AdminLeave and assigned it reference number 25-10002-FOIA-CDC. Holzerland 4 th Decl. ¶30.	Admitted. CREW respectfully refers the Court to ECF No. 18-2 for a complete and accurate statement of OS FOIA's acknowledgment.
79. On May 1, 2025, OS-FOIA denied expedited processing for Request B–AdminLeave on the grounds that Plaintiff did not carry its burden to justify its request when measured against the criteria outlined in HHS implementing regulations. Holzerland 4 th Decl. ¶31.	Admitted. CREW respectfully refers the Court to ECF No. 18-2 for a complete and accurate statement of OS FOIA's expedited processing denial.
80. On July 28, 2025, OS-FOIA started the search for responsive records in conjunction with CDC staff for Request B–AdminLeave . As a result of the search, OS-FOIA located approximately one thousand eight hundred (1,800) pages of potentially responsive records, approximately one thousand seven hundred (1,700) of which comprise substantively identical informational packets issued to each employee who received a RIF notice. OS-FOIA continues its search because additional custodians at Departmental offices may have responsive records. Holzerland 4 th Decl. ¶32.	CREW lacks sufficient knowledge to admit or deny this paragraph to the extent it discusses when OS FOIA began its search for records, what it located, and its intentions and plans. <i>See Jud. Watch</i> , 449 F.3d at 145-46. CREW avers that it received a first interim response letter on September 15, 2025, and it respectfully refers the Court to the letter for a complete and accurate statement of its contents. <i>See</i> Suppl. Goldstein MSJ Decl. ¶ 3. CREW additionally avers that, in the first interim response issued on September 15, it received RIF notice emails sent by HHS, with corresponding RIF memoranda and attachments. <i>See id.</i>
81. OS-FOIA will start the review of the records immediately for Request B–AdminLeave . OS-FOIA plans to process all responsive records received to date and issue a response to Plaintiff on or before September 15, 2025, via its first interim release. There is no estimate of the potential volume of additional responsive records at this time, as the search for responsive records is ongoing. Holzerland 4 th Decl. ¶33.	CREW lacks sufficient knowledge to admit or deny this paragraph to the extent it discusses when OS FOIA began its review and its searches, plans, and views on additional records. <i>See Jud. Watch</i> , 449 F.3d at 145-46. CREW avers that it received a first interim response letter on September 15, 2025, and it respectfully refers the Court to the letter for a complete and accurate statement of its contents. <i>See</i> Suppl. Goldstein MSJ Decl. ¶ 3.

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82. On May 1, 2025, OS-FOIA acknowledged receipt of Request C–DOGE/OPM and assigned it reference number 25-10003-FOIA-CDC. Holzerland 4 th Decl. ¶35.	Admitted. CREW respectfully refers the Court to ECF No. 18-2 for a complete and accurate statement of OS FOIA's acknowledgment.
83. On May 1, 2025, OS-FOIA denied expedited processing for Request C–DOGE/OPM on the grounds that Plaintiff did not carry its burden to justify its request when measured against the criteria outlined in HHS implementing regulations. Holzerland 4 th Decl. ¶36.	Admitted. CREW respectfully refers the Court to ECF No. 18-2 for a complete and accurate statement of OS FOIA's expedited processing denial.
84. On July 28, 2025, OS-FOIA started the search for responsive records for Request C–DOGE/OPM in conjunction with CDC staff. As a result of the search, OS-FOIA was not able to locate or identify any potentially responsive records and plans to issue a response in this case on or before September 30, 2025. Holzerland 4 th Decl. ¶37.	CREW lacks sufficient knowledge to admit or deny this paragraph to the extent it discusses when OS FOIA began its search for records and what it located. <i>See Jud. Watch</i> , 449 F.3d at 145-46. CREW avers that it received a response letter on September 30, 2025, and it respectfully refers the Court to the letter for a complete and accurate statement of its contents. <i>See</i> Suppl. Goldstein MSJ Decl. ¶ 5.
85. On May 1, 2025, OS-FOIA acknowledged receipt of Request D–FOIA Plans and assigned it reference number 25-10004-FOIA-CDC. Holzerland 4 th Decl. ¶39.	Admitted. CREW respectfully refers the Court to ECF No. 18-2 for a complete and accurate statement of OS FOIA's acknowledgment.
86. On May 1, 2025, OS-FOIA denied expedited processing on the grounds that Plaintiff did not carry its burden to justify its request when measured against the criteria outlined in HHS implementing regulations. Holzerland 4 th Decl. ¶40.	Admitted. CREW respectfully refers the Court to ECF No. 18-2 for a complete and accurate statement of OS FOIA's expedited processing denial.
87. On July 28, 2025, OS-FOIA started the search for responsive records in conjunction with CDC staff. As a result of the search, OS-FOIA has not located any potentially responsive records to	CREW lacks sufficient knowledge to admit or deny this paragraph to the extent it discusses when OS FOIA began its search for records and what it located and with whom. <i>See Jud. Watch</i> , 449 F.3d at 145-46.

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date, but in conjunction with CDC Information Technology staff, identified additional search terms and potential record custodians and continues its search. Holzerland 4th Decl. ¶41.	
88. OS-FOIA plans to update Plaintiff on or before September 30, 2025 as to the status of the search for responsive records and anticipated processing rate, to the extent responsive records are located. Holzerland 4th Decl. ¶42.	CREW lacks sufficient knowledge to admit or deny this paragraph to the extent it discusses OS FOIA's plans. <i>See Jud. Watch</i>, 449 F.3d at 145-46. CREW avers that it received a response letter on September 30, 2025, and it respectfully refers the Court to the letter for a complete and accurate statement of its contents. <i>See Suppl. Goldstein MSJ Decl.</i> ¶ 6.
89. On May 1, 2025, OS-FOIA acknowledged receipt of Request E–Portals/Emails and assigned it reference number 25-10005-FOIA-CDC. Holzerland 4th Decl. ¶44.	Admitted. CREW respectfully refers the Court to ECF No. 18-2 for a complete and accurate statement of OS FOIA's acknowledgment. Additionally, CREW respectfully refers the Court to the June 23, 2025, additional acknowledgment letter that Defendants sent for a complete and accurate statement of its contents. <i>See Defs.' Counter SOMF</i> ¶ 35; <i>Goldstein MSJ Decl.</i> ¶ 4.
90. On July 28, 2025, OS-FOIA started the search for responsive records. As a result of the search, OS-FOIA has located or identified any potentially responsive records but as of September 3, 2025, OS-FOIA has not yet ascertained their volume, and the search for responsive records is ongoing. Holzerland 4th Decl. ¶46.	CREW lacks sufficient knowledge to admit or deny this paragraph to the extent it discusses OS FOIA's plans. <i>See Jud. Watch</i>, 449 F.3d at 145-46. CREW avers that it received a response letter on September 30, 2025, and it respectfully refers the Court to the letter for a complete and accurate statement of its contents. <i>See Suppl. Goldstein MSJ Decl.</i> ¶ 7.
91. OS-FOIA plans to process all responsive received to date, and to update Plaintiff on or before September 30, 2025 via its first interim response as to the status of the review and ongoing search for responsive records and anticipated processing rate, to the extent responsive records are located. Holzerland 4th Decl. ¶47.	CREW lacks sufficient knowledge to admit or deny this paragraph to the extent it discusses OS FOIA's plans. <i>See Jud. Watch</i>, 449 F.3d at 145-46. CREW respectfully refers the Court to the response letters referenced in the responses to paragraphs 77, 80, 84, 88, and 90 above.

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Other FOIA Requests	
92. On May 21, 2025, Plaintiff submitted two additional FOIA requests for CDC records about the April 1 RIF of CDC staff and the termination of the agency's Healthcare Infection Control Practices Advisory Committee. Holzerland 4 th Decl. ¶49.	Admitted. CREW respectfully refers the Court to the requests (ECF No. 26-2, Exs. K-L) for a complete and accurate statement of their contents.
93. On June 25, 2025, Plaintiff submitted five additional FOIA requests for various CDC records. Holzerland 4 th Decl. ¶49.	Admitted. CREW respectfully refers the Court to the requests (ECF No. 33-2, Exs. C-G) for a complete and accurate statement of their contents.
94. OS-FOIA has sent acknowledgement letters and/or tracking numbers for all seven additional requests submitted by Plaintiff from May 21 st to June 25 th . Holzerland 4 th Decl. ¶49.	Admitted. CREW respectfully refers the Court to the five acknowledgment letters for its June 25, 2025 requests for a complete and accurate statement of their contents. <i>See</i> Suppl. Goldstein MSJ Decl. ¶¶ 14-15. CREW respectfully refers the Court to the two acknowledgment letters for its two May 21, 2025 requests for a complete and accurate statement of their contents. <i>See</i> Suppl. Goldstein MSJ Decl. ¶¶ 10-11.
95. With regard to the future FOIA requests that Plaintiff stated it intends to file, if and when future requests are submitted, as is the case for any FOIA submitter, these requests will be processed in accordance with FOIA and applicable HHS regulations. Until that time, there can be no agency action related to Plaintiff's planned future requests, and to my knowledge, FOIA does not authorize relief based on unfiled requests. Holzerland 4 th Decl. ¶50.	This paragraph is denied because it states legal conclusions, which are not material facts to which CREW must respond.

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96. As of May 20, 2025, Democracy Forward Foundation submitted five requests between January 21, 2025 and April 25, 2025. However, the same organization has submitted thirty-three (33) requests since January 21, 2025, and OS-FOIA issued acknowledgment letters and/or tracking numbers for each of the requests in question. Holzerland 4th Decl. ¶51.	CREW lacks sufficient knowledge to admit or deny the total number of FOIA requests Democracy Forward Foundation has submitted since January 21, 2025, <i>see Jud. Watch</i>, 449 F.3d at 145-46, which is not, in any event, a material fact because it does not bear on whether Defendants can and will carry out their CDC FOIA responsibilities since the April 1, 2025 CDC FOIA office closure, in accordance with FOIA and 45 C.F.R. Part 5. CREW otherwise admits the paragraph's discussion of the five FOIA requests referenced, and it respectfully refers the Court to the supplemental declaration from Democracy Forward Foundation (attached herein) for a complete and accurate statement of the status of the organization's pending CDC FOIA requests.
97. As of May 20, 2025, Sierra Club submitted an April 1, 2025 request to a CDC electronic mailbox. OS-FOIA issued an acknowledgment letter and tracking number for that request on July 30, 2025. Holzerland 4th Decl. ¶52.	Admitted. CREW respectfully refers the Court to the supplemental declaration from Democracy Forward Foundation (attached herein) for a complete and accurate statement of the current status of Democracy Forward Foundation's pending CDC FOIA requests.
98. As of May 21, 2025, American Oversight submitted six (6) outstanding requests request to CDC, received tracking numbers for the submitted requests. OS-FOIA issued acknowledgment letters and tracking numbers on September 3, 2025, for these requests. Since May 21, 2025, American Oversight submitted thirteen (13) more requests; for these requests, OS-FOIA intends to issue acknowledgement letters on or about September 4, 2025. Holzerland 4th Decl. ¶53.	CREW lacks sufficient knowledge to admit or deny this paragraph's discussion of Defendants' intentions, <i>see Jud. Watch</i>, 449 F.3d at 145-46, but it otherwise admits this paragraph and respectfully refers the Court to the supplemental declaration from American Oversight (attached herein) for a complete and accurate statement of the status of the organization's pending CDC FOIA requests.

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99. To the best of OS-FOIA's knowledge, it appears that OS-FOIA has not received a communication from the Union for Concerned Scientists from April 1 through the date of this document. The former CDC FOIA email inbox has had an approved auto-reply enabled since May 1, 2025 recommending requesters contact OS-FOIA for service. Holzerland 4th Decl. ¶54.	CREW lacks sufficient knowledge to admit or deny this paragraph's discussion of Defendants' "best knowledge" or the details of the CDC FOIA email inbox auto-reply, <i>see Jud. Watch</i>, 449 F.3d at 145-46, but it respectfully refers the Court to the supplemental declaration from the Union of Concerned Scientists (attached herein) for a complete and accurate statement of the status of the organization's requests and communications to OS FOIA, which have gone unanswered.
100. In its filings, Plaintiff asserts that it has multiple other FOIA requests pending with HHS concerning HHS records related to Amy Gleason and compliance with the Privacy Act. <i>See</i> ECF 33-11, Page 21 of 22. While the OS-FOIA team has confirmed such requests are currently pending, the existence of other pending FOIA requests is not material to the issues raised in this litigation. Holzerland 4th Decl. ¶48.	The first sentence of this paragraph is admitted. The second sentence of this paragraph is denied because CREW's other pending requests are material to its Article III standing.
101. The Office of the Secretary and other entities within HHS also handle the same or similar types of matters FOIA requests on a range of important public health topics—including foodborne illness and toxic substance events and outbreaks of infectious diseases like Ebola and measles—and each year provides "hundreds of thousands of pages of records to requestors." Holzerland 4th Decl. ¶110.	CREW lacks sufficient knowledge to admit or deny this paragraph with respect to the nature of the "same or similar types of" FOIA matters and requests that OS FOIA and other entities within HHS handle or the number of pages, <i>see Jud. Watch</i>, 449 F.3d at 145-46, except to note that: (1) per 45 C.F.R. § 5.3, OS FOIA handles requests "for records maintained by OS Staff Divisions other than the OIG," and FOIA officers for other Operating Divisions handle requests for division records; and, (2) the FOIA annual reports referenced in the response to paragraph 54 above reflect each HHS FOIA office's FOIA output and work.

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	CREW respectfully refers the Court to 45 C.F.R. § 5.3 and the annual reports for a complete and accurate statement of their contents.

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102. While it is correct that the different FOIA offices had their own webpages, <u>it was because historically, Departmental FOIA operations were highly federated and that divisions performed the identical task of processing FOIA requests in a manner highly untethered to Department policy, and as a result, in turn</u> a number of the sub-entities in the HHS's FOIA 11 operating divisions <u>too</u>, had <u>-</u>at some times, their own webpages. Holzerland 4th Decl. ¶99.	CREW admits that FOIA offices had their own webpages, lacks sufficient knowledge to admit or deny whether some of the HHS operating divisions' sub-entities had their own webpages, <i>see Jud. Watch</i>, 449 F.3d at 145-46, and otherwise denies the allegations in this paragraph as inconsistent with 45 C.F.R. §§ 5.3, 5.23, 5.25, which establish the Department's FOIA policy of decentralized FOIA operations and contemplate that division FOIA offices will handle their own distinct FOIA requests and engage in routing, consultation, referral, and coordination for requests involving more than one division. <i>See also 2025 Chief FOIA Officer Report, supra</i>, at Introduction (describing how Operating Divisions and OS FOIA administer FOIA at HHS "on a decentralized basis," how the FOIA program "contributes" to HHS's "ability to successfully execute [its] mission and realize [its] strategic goals," and how it was proud of its "FOIA accomplishments" and its continued "commitment to efficient and responsible" FOIA implementation); <i>see also id.</i> at Section IV (discussing the divisions' different technical initiatives and uses of technology, including their different websites, and explaining that "HHS FOIA Offices review their agency's FOIA websites on a regular basis to ensure that these websites contain up-to-date FOIA libraries; instructions for making a request or inquiring about an existing request; the most recent reports related to the administration of FOIA; and helpful FOIA resources including links to the FOIA statute, the Department's FOIA regulations, and the DOJ FOIA Guide. These websites are also regularly updated to reflect changes in the FOIA process or new contact information, and to make sure that all links are up to date. Furthermore, all OpDivs contain a clear link to their respective FOIA websites on their agency homepages.").

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	CREW also notes that the track-changes edits in this paragraph were added by Defendants, not CREW, and they are reflected in the as-filed copy of Defendants' Statement of Material Facts (ECF No. 44-1 at 38).

Date: October 21, 2025

Respectfully Submitted,

/s/ Yoseph T. Desta

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