



**DEPARTMENT OF HEALTH & HUMAN SERVICES**

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Office of the Secretary  
Assistant Secretary for Public Affairs  
Washington, D.C. 20201

**HHS Case No. 2023-01171-FOIA-OS**  
**Litigation No: 2023-cv-02894**

**December 7, 2023**

Dear Mr. Zorn:

This letter is in response to your Freedom of Information Act (FOIA) request submitted to the U.S. Department of Health and Human Services (HHS). Specifically, you requested the following records:

The letter from Asst. Sec. Rachel Levin to Administrator Anne Milgram recommending marijuana be rescheduled to III that is referenced here:  
<https://www.bloomberg.com/news/articles/2023-08-30/hhs-calls-for-moving-marijuana-to-lower-risk-us-drug-category>

The Department has reviewed 252 pages of records, potentially responsive to FOIA request 2023-01171-FOIA-OS. Of these 252 pages, we are releasing 2 pages in their entirety, while releasing 236 pages in part, with portions redacted, pursuant to Exemption 5 of the FOIA (5 U.S.C. §552 (b)(5)). Finally, we are withholding 14 pages in full, pursuant to Exemption 5 of the FOIA (5 U.S.C. §552 (b)(5))

FOIA exemption (b)(5) protects inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency. This exemption protects documents that would be covered by any privilege an agency could assert in a civil proceeding. These privileges include, among others, the deliberative process privilege, the attorney-client privilege, and the attorney work-product privilege. These records have also been considered against the foreseeable harm standard when applying the (b)(5) exemption.

I have found that it is reasonably foreseeable that disclosure would harm an interest protected by one or more of the exemptions to the FOIA's general rule of disclosure and/or that disclosure is prohibited by law.

Should you have questions or concerns regarding the Department's response and/or the processing of your request, any such issues should be communicated to your legal counsel and Department of Justice Attorney representing the Department in this matter.

Sincerely yours,

Alesia Y. Williams  
Director, FOIA Appeals and Litigations  
FOI/Privacy Act Division