



**Australian Government**

**Department of Health**

Department Reference: FOI 3127

Susan Stokes

By email: [foi+request-7896-a47c3ff2@righttoknow.org.au](mailto:foi+request-7896-a47c3ff2@righttoknow.org.au)

Dear Susan Stokes

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

I refer to your request of 26 September 2021 to the Department of Health (the department) seeking access under the *Freedom of Information Act 1982* (Cth) (the FOI Act) to documents related to COVID-19. Your request is in the following terms:

1. *There has been evidence that the isolated virus known as SARS-COV-2 causes the disease known as COVID-19, or;*
2. *The four criteria known as Koch's postulates have been satisfied to show that the virus known as SARS-COV-2 causes the disease known as COVID-19, and;*
3. *There has been documentable and real-life cases of asymptomatic transmission of the virus known as SARS-COV-2, and;*
4. *There is a scientifically accurate test, which can detect the existence of the virus known as SARS-COV-2.*

**Information about COVID-19**

SARS-CoV-2, the virus which causes COVID-19, is real. Multiple scientific studies across the world demonstrate that highly reputable laboratory medicine experts have isolated and sequenced the virus that causes COVID-19, demonstrating that the virus exists, that it exists in variant forms, that it is different from the influenza virus, and that it causes a disease that has resulted in over 5 million deaths worldwide in just over 22 months.

While the department is not the custodian of the scientific studies establishing the existence of SARS-CoV-2, this research has informed the Australian Government's response to the pandemic. You can find those scientific studies in the public domain.

The department is a government agency and does not conduct scientific studies or laboratory testing for the SARS-CoV-2 in a laboratory. Diagnostic assays using reverse transcriptase polymerase chain reaction (RT-PCR) are conducted by testing laboratories throughout Australia. For more information, please see the Public

Health Laboratory Network guidance on laboratory testing for SARS-CoV-2, which is available online:

<https://www.health.gov.au/resources/publications/phln-guidance-on-laboratory-testing-for-sars-cov-2-the-virus-that-causes-covid-19>

In Australia, scientists at the Victorian Infectious Diseases Reference Laboratory at The Peter Doherty Institute for Infection and Immunity were the first to isolate SARS-CoV-2 outside of China, winning the 2020 MJA/MDA National Prize for Excellence in Medical Research. This critical information was immediately shared with local and overseas reference laboratories and major North American and European virus culture collections. These peer-reviewed, evidence-based publications provide scientific evidence for the existence of this deadly virus.

Attached to this email is an article published in the Daily Telegraph on 13 August 2021 that may be of interest to you.

### **Information about asymptomatic transmission**

The department does not hold or collate specific data on asymptomatic cases and whether they were the source of infection for another case.

The National Interoperable Notifiable Diseases Surveillance System (NINDSS) collects data on the symptomatic status of cases at the time of their case interview, and depending on the jurisdiction where it is collected, this field may be updated throughout the period of public health management for a case. This data therefore represents a mix of cases that are either asymptomatic or pre-symptomatic and are not a reliable source for interpreting the true asymptomatic status of people who have tested positive. The term asymptomatic refers to a person who tests positive for SARS-CoV-2 (the virus that causes COVID-19) who does not develop symptoms across the duration of their infection while the term pre-symptomatic refers to a person who at the time of testing positive for SARS-CoV-2 did not have symptoms of the virus but in the time following, goes on to develop symptoms, no matter how mild.

More broadly, it is difficult to determine how many people infected with SARS-CoV-2 are truly asymptomatic via surveillance data. Cases that are truly asymptomatic may not be aware of their infection status and therefore will not seek testing; some of these people may only be identified as part of contact tracing or other testing activities.

Additionally, the NINDSS does not contain data on whether an asymptomatic case was the source of infection for another case. Some studies estimate that the asymptomatic proportion of cases ranges from 18% to 42%. Transmission can occur from persistently asymptomatic persons, although they seem to be less likely to transmit. The risk of transmission from symptomatic or pre-symptomatic cases is considered to be higher than from asymptomatic cases, as viral shedding is higher at

symptom onset. The secondary attack rate of symptomatic index cases was higher than asymptomatic cases (see below articles for reference).

More specific information on instances of asymptomatic transmission for cases reported in states and territories may be available from state and territory health departments. Australia continues to review the latest literature on COVID-19, including on the occurrence of asymptomatic cases and their transmission potential to inform its public health advice, including with regard to the Communicable Diseases Network Australia COVID-19: National Guideline for Public Health Units, see: <https://www1.health.gov.au/internet/main/publishing.nsf/Content/cdna-song-novel-coronavirus.htm>

## **FOI decision**

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

The FOI Act provides a mechanism for individuals to request access to documents held by relevant entities. It is not a mechanism for asking questions or seeking information that the entity does not hold in documents.

Appropriate steps have been taken to find documents you have requested including consultation with relevant departmental officers and searches of departmental file management systems.

I am satisfied, based on the consultation undertaken and the searches conducted, that the department, including the Therapeutic Goods Administration, does not hold any documents referred to in your request. This research and information is available in the public domain as described above.

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

## **FOI review rights**

If you are dissatisfied with my decision, you may apply for a review.

### Internal review

Under section 54 of the FOI Act, you may apply for internal review of this decision. In accordance with section 54B of the FOI Act, an application for internal review must be made in writing within 30 days after the day you are notified of this decision (or such further period as the department allows). To assist in the internal review process, please provide reasons you consider the review of my decision is necessary.

The internal review will be carried out by another officer of this department within 30 days of receipt of your application.

An application for an internal review should be addressed to:

Email: [FOI@health.gov.au](mailto:FOI@health.gov.au)

Mail: FOI Unit (MDP 516)

Department of Health

GPO Box 9848

CANBERRA ACT 2601

### Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Office of the Australian Information Commissioner (OAIC) for review of my decision by the Information Commissioner (IC).

In accordance with subsection 54S(1) of the FOI Act, an IC review application in relation to a decision covered by subsection 54L(2) (access refusal decisions) must be made in writing within 60 days after the day you are notified of this decision (if you do not request an internal review).

More information about IC review is available on the OAIC website at:

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

The OAIC can be contacted by:

Phone: 1300 363 992

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

### **Complaints**

If you are dissatisfied with action taken by the department, you may also make a complaint.

#### Complaint to the department

Complaints to the department are covered by the department's privacy policy. A form for lodging a complaint directly to the department is available on the department's website:

<https://www.health.gov.au/about-us/contact-us/complaints>

#### Complaint to the IC

Information about making a complaint to the IC about action taken by the department is available on the OAIC website:

<https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>

**Relevant provisions of the FOI Act**

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

<https://www.legislation.gov.au/Details/C2021C00382>

**Contacts**

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

Yours sincerely



Megan Lancaster  
Assistant Secretary  
Public Health and Surveillance Branch

23 November 2021