

September 26, 2006

The Honorable

Washington, DC

We write to urge modification of the public disclosure provisions of HR 5533, which would establish a new Biomedical Advanced Research and Development Authority within the Department of Health and Human Services. Improved coordination and oversight of research and development of new medicines and vaccines against biological weapons and other disease agents is critical to our national security but we believe this measure will wrap that effort in unnecessary and counter-productive secrecy.

Language in the “Biodefense and Pandemic Vaccine and Drug Development Act of 2006” mandates that the Secretary of Health and Human Services withhold technical and scientific information that would “reveal vulnerabilities of existing medical or public health defenses” against biological threats. It establishes a five-year blackout on reviewing withholding decisions.

While well-intentioned, this language is vague and all but certain to result in inappropriate withholding of information that needs to be shared for reasons related to both public accountability and national security. All of the research and development activities that BARDA would pursue are directed at reducing our nation’s vulnerabilities. What then are the limits on information that must be withheld? The legislation provides no guidance on this question, and allows no discretion. In the fast-moving area of biomedical research, a five-year blackout is unwise and likely to be counter-productive in many instances.

The legislation might also prevent the results of important fundamental research from being shared with other scientists who need to know. For instance, basic research on new broad-spectrum anti-microbials is essential in the face of naturally-occurring but rapidly increasing antibiotic resistant bacterial infections. Yet, such research could reveal vulnerabilities and thus could fall within the broad language of the law. Withholding such information runs counter to long-standing U.S. policy that fundamental research be open, that the benefits of such openness outweigh the risks.

Indeed, the U.S. leads the world in biomedical research. Our experience has shown that robust and effective vaccine and drug development can only take place in a climate of timely and free exchange of materials and information. In contrast, secrecy in bioweapons related research will not only harm our biodefense vaccine and drug development efforts, but will set a poor example that other nations may follow to our chagrin.

Moreover, given the widespread criticism that the Department and Project BioShield have already received for lack of results and accountability, we believe that Congress should strive to make the BARDA as transparent as possible while ensuring necessary national security.

Toward that end, we urge that the language of HR 5533 be modified to provide more specific guidance on the information covered, to give the secretary discretion to release information that he believes could be shared publicly, and to shorten the review period to two years.

Sincerely,

Alternatives for Community & Environment, Inc. Boston, MA	Labwatch.org Seattle, WA
American Library Association Washington, DC	National Freedom of Information Coalition Columbia, MO
American Association of Law Libraries Washington, DC	OMB Watch Washington, DC
Californians Aware CA	OpenTheGovernment.org Washington, DC
Center for Democracy and Technology Washington, DC	Project On Government Oversight Washington, DC
Center for National Security Studies Washington, DC	Public Citizen Washington, DC
Coalition of Journalists for Open Government Washington, DC	Reporters Committee for Freedom of the Press Arlington, VA
Council for a Livable World Washington, DC	SF-Bay Area Chapter Physicians for Social Responsibility
Council for Responsible Genetics Cambridge, MA	Sciencecorps Lexington, MA
The Edmonds Institute Edmonds, WA	Scientists Working Group on Biological and Chemical Weapons Washington, DC
Government Accountability Project Washington, DC	The Sunshine Project Austin, TX
	Tri-Valley CAREs (Communities Against a Radioactive Environment) Livermore, CA

