



OFFICE of GOVERNMENT INFORMATION SERVICES

July 18, 2016 - Sent via email



Re: Case No. 201600716  
NG: CM: KG

NATIONAL  
ARCHIVES  
and RECORDS  
ADMINISTRATION

Dear [REDACTED]:

8601 ADELPHI ROAD  
OGIS  
COLLEGE PARK, MD  
20740-6001

This responds to your April 4, 2016 request to the Office of Government Information Services (OGIS), which we received via email. Your request for assistance concerns your Freedom of Information Act (FOIA) request to the U. S. Department of Veterans Affairs (VA), Minneapolis VA Medical Center.

web: [www.ogis.archives.gov](http://www.ogis.archives.gov)  
e-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
phone: 202-741-5770  
toll-free: 1-877-684-6448  
fax: 202-741-5769

OGIS was created to complement existing Freedom of Information Act (FOIA) practice and procedure; we strive to work in conjunction with the existing request and appeal process. The goal is for OGIS to allow, whenever practical, the requester to exhaust his or her remedies within the agency, including the appeal process. Please know that OGIS has no investigatory or enforcement power, nor can we compel an agency to release documents. OGIS serves as the Federal FOIA Ombudsman and our jurisdiction is limited to assisting with the FOIA process.

OGIS provides mediation services to resolve disputes between FOIA requesters and Federal agencies. After opening a case, OGIS gathers information from the requester and the agency to learn more about the nature of the dispute. This process helps us gather necessary background information, assess whether the issues are appropriate for mediation, and determine the willingness of the parties to engage in our services. As part of our information gathering, OGIS carefully reviewed your submission of information.

You contacted OGIS regarding your [REDACTED] FOIA request seeking [REDACTED]

[REDACTED] The Minneapolis VA Health Care System FOIA Office responded to your request on [REDACTED], by withholding responsive information in part under Exemption 6, 5 U.S.C. § 552 (b)(6). You appealed this determination on the grounds that there is a significant public interest in the disclosure of the information you seek. Additionally, you explain in your appeal that [REDACTED]. The VA Office of General Counsel responded to your appeal on [REDACTED], affirming the Minneapolis VA Medical Center's determination. You asked OGIS to assist with this matter.

OGIS contacted VA to discuss your request and appeal. VHA FOIA Office Director Timothy Graham explained to OGIS that the agency released to you information including [REDACTED]

[REDACTED] Mr. Graham affirmed the agency's decision to withhold the [REDACTED]. In cases such as this where an agency is firm in its position, there is little for OGIS to do beyond providing more information about the agency's actions.



[REDACTED]  
July 18, 2016

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Regarding the agency's use of FOIA Exemption 6, VA's appeal response letter explains that Federal civilian employees generally have a limited privacy interest in information such as their names. However, guidance issued by the Department of Justice's, Office of Information Policy states, "Federal employees involved in law enforcement, as well as military personnel and employees in sensitive occupations, do possess, by virtue of the nature of their work, substantial privacy interests in their identities."

<http://www.justice.gov/sites/default/files/oip/legacy/2014/07/23/exemption6.pdf#p21> Though the information you requested pertains to non-law enforcement employees, the VA explained the agency's use of Exemption 6 as appropriate because the release of this type of information "could represent a threat to their well-being, harassment, or their ability to function within the sphere of their employment."

The Court of Appeals for the Second Circuit in *Hopkins v. HUD*, 929 F.2d 81, 88 (2nd Cir. 1991), found that the "simple invocation of a legitimate public interests... cannot itself justify the release of personal information. OIP guidance states, "release of the actual personal information at issue must further the public's understanding of the activity that is the basis for the asserted FOIA public interest in disclosure. It is not enough that the information would permit speculative inference about the conduct of an agency or a government official." <http://www.justice.gov/sites/default/files/oip/legacy/2014/07/23/exemption6.pdf#p53> We note that VA's appeal response letter states that the information released by the agency satisfies the public interest in this topic.

I hope that this information about your request is useful to you. Thank you for contacting OGIS; we will now consider this matter closed.

Sincerely,

/s/

NIKKI GRAMIAN  
Acting Director

We appreciate your feedback. Please visit <https://www.surveymonkey.com/s/OGIS> to take a brief anonymous survey on the service you received from OGIS.