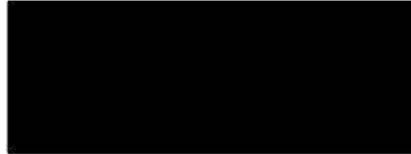




## OFFICE of GOVERNMENT INFORMATION SERVICES

January 25, 2013—Sent via e-mail



Re: OGIS Case No. 201300140  
MN: CZ: KM

NATIONAL  
ARCHIVES  
and RECORDS  
ADMINISTRATION

8601 ADELPHI ROAD  
OGIS  
COLLEGE PARK, MD  
20740-6001

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

Dear [REDACTED]:

This responds to your November 16, 2012 request for assistance from the Office of Government Information Services (OGIS), which we received on November 23, 2012. Your request for assistance pertains to your Freedom of Information Act (FOIA) request, No. [REDACTED] to the Department of Veterans Affairs (VA), seeking access to documents pertaining to a traffic accident.

Congress created OGIS as the FOIA Ombudsman to complement existing 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. OGIS has no investigatory or enforcement power, nor can we compel an agency to release documents.

OGIS Facilitator Kirsten Mitchell carefully reviewed the materials you submitted and discussed your case with Timothy Graham, FOIA Public Liaison for the Veterans Health Administration (VHA), Department of Veterans Affairs (VA), who is also director of VHA's FOIA Office. Ms. Mitchell learned that in your request, the VA withheld certain information about third parties under FOIA Exemptions 6 and 7(C), 5 U.S.C. § 552(b)(6) & 7(C). While FOIA provides the public with a right to access government records, that access is not absolute. Certain information, including information about living third-party individuals, may be properly withheld from release under the law to protect individuals' privacy rights.

Specifically, FOIA Exemptions 6 and 7(C) protect personal privacy interests. FOIA Exemption 6 protects information about individuals in "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." FOIA Exemption 7(C) is limited to information compiled for law enforcement purposes and protects personal information when disclosure "could reasonably be expected to constitute an unwarranted invasion of personal privacy."

In considering withholding records under Exemptions 6 and 7(C), an agency must weigh the interest in public disclosure against an individual's right to privacy. Courts have consistently held that FOIA is intended to allow people to learn about the conduct of agencies, not to discover information about other individuals. The U.S. Supreme Court held that "the statutory purpose [of FOIA] is not fostered by disclosure of information about private citizens that is accumulated in various governmental files but that reveals little or nothing about an agency's own conduct." *U.S. Dep't of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749, 773 (1989).



[REDACTED]  
January 25, 2013

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As the agency's November 7, 2012 response to your appeal states, the agency withheld from disclosure the home address, birth date and Social Security number of another individual. We learned from Mr. Graham that the agency also withheld the individual's weight, driver's license number and home telephone number, among other personally identifiable information, as well as the name and date of birth of a witness to the accident. The withheld information appears to fit squarely into the parameters of FOIA Exemptions 6 and 7(C).

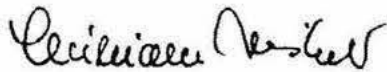
If you would like for your insurance company to have an unredacted version of the police report, you may ask the insurance company to request a copy from Matthew McVeigh, the FOIA Officer for VA Great Lakes Health Care System in Milwaukee. Mr. McVeigh's address is 5000 West National Ave., Milwaukee, WI 53295. Mr. McVeigh can be reached by e-mail at [REDACTED], by fax at 414-389-4193, and by phone at 414-384-2000, extension [REDACTED].

Releasing the report to an insurance company would not be a release under FOIA. We learned from Mr. Graham that sharing the report with an insurance company would be done under the Privacy Act of 1974, which permits disclosure of police records to insurance companies for the purposes of adjudicating an insurance claim.

We have concluded our fact finding and have determined that it appears that VA's action in response to FOIA request No. [REDACTED] is in accordance with established FOIA law and policy. There is no further assistance that OGIS can offer you at this time. We hope this information helps you better understand the types of information withheld and why VA withheld it.

Thank you for bringing this matter to OGIS. We will close your case at this time.

Sincerely,



Miriam Nisbet, Director  
Office of Government Information Services

cc: Timothy Graham, Director, VHA FOIA Office

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.