



U.S. Department
of Veterans Affairs

Office of the General Counsel
Washington DC 20420

MAY 20 2014

In Reply Refer To: 024N
Case No. 30377

Mr. Scott A. Hodes
Attorney at Law
P.O. Box 42002
Washington, DC 20015

Dear Mr. Hodes:

This letter is the final administrative decision under the Freedom of Information Act (FOIA) 5 U.S.C. § 552 on your January 2013 appeal of the decision by the Department of Veterans Affairs (VA) Office of Security and Law Enforcement (OSLE) dated in December 2012. OSLE is an office within the Office of Operations, Security and Preparedness, in Washington, DC. OSLE was responding to your October 2012 request for all records between or involving VA Office of Security and Preparedness, OSLE, and/or the Law Enforcement Training Center concerning your FOIA requests dated December 5, 2011, February 13, 2012, and February 14, 2012.

In its December 2012 determination, OSLE provided you responsive records consisting of emails; names and other identifying information were redacted from the content of the emails. You appealed OSLE's response by letter dated January 16, 2013. At the outset, we point out that several of the emails provided to you have attachments consisting of position descriptions and organizational charts; these documents were processed by OSLE in an earlier FOIA decision and were addressed by this office on appeal previously. They will not be re-processed in response to the current appeal. Our determination on this appeal is limited to the email messages themselves. Please note further that OSLE also processed documents such as a LETC Directive and Manual, which have also been processed and withheld on another occasion by OSLE and addressed by this office on appeal. Those documents also will not be re-processed here; note that OSLE applied FOIA Exemptions 7E and 7F to those documents, which you appealed. Given that your appeal of OSLE's application of those exemptions applies to documents that have already been addressed by this office on appeal, your appeal with regard to those specific exemptions will also not be addressed here.

We have reviewed your January 2013 appeals under the provisions of the FOIA, which states that federal agencies must disclose records requested unless they may be withheld in accordance with one or more of nine statutory exemptions. 5 U.S.C. § 552(b). Please note that subsequent to your appeals, we contacted

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OSLE personnel and confirmed that OSLE provided all available information that it had in its possession. We are satisfied that OSLE conducted an appropriate search for responsive records and processed those that were available.

OSLE determined that identities and identifying information contained within the emails were protected from release under FOIA Exemption 6. 5 U.S.C. § 552(b)(6). Exemption 6 protects records the release of which would lead to a clearly unwarranted invasion of personal privacy. 5 U.S.C. § 552(b)(6). In this case, the responsive documents contain identifying details regarding VA employees involved in processing your FOIA request or providing records responsive to your request. While federal employees have a lesser expectation of privacy with regard to certain information about themselves, they nonetheless retain a privacy interest in information about themselves under certain circumstances. Upon review of the record, we conclude that these individuals have a privacy interest in this information, as release of their identities and other information, such as contact information, could result in unwanted attention or harassment. Further, there is no indication that release of this information would serve an articulable and significant public interest. Any potential general public interest in the agency's conduct of its business is satisfied by the information in the emails disclosed by OSLE, which reveals its response to and processing of your FOIA request. In view of the foregoing, it is appropriate to withhold the personal information of the individuals involved.

Finally, we point out that the FOIA is a records statute that applies only to agency documents in existence when a request is processed under its provisions. Further, while the agency must conduct a reasonable search for records, that search is generally defined as one that is "reasonably calculated to uncover all relevant documents." See, e.g., Weisberg v. DOJ, 705 F.2d 1344, 1351 (D.C. Cir. 1983); Iturralde v. Comptroller of the Currency, 315 F.3d 311, 315 (D.C. Cir. 2003).

This is the final decision of the VA in this matter. Should you disagree, you have the right to file a civil action in the appropriate United States District Court.

In addition, please note that as part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

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Mr. Scott A. Hodes

Office of Government Information Services
National Archives and Records Administration
Room 2510
8601 Adelphi Road
College Park, MD 20740-6001

E-mail: ogis@nara.gov
Telephone: 301-837-1996
Facsimile: 301-837-0348
Toll-free: 1-877-684-6448

Sincerely yours,

A handwritten signature in cursive script that reads "Deborah K. McCallum".

Deborah K. McCallum
Assistant General Counsel

cc: Tanya Al-Khateeb – OSP (007)