
NARA Complaint ICO Walter Reed Destruction of Records. FOIA RE Certified Packages

3 messages

(b) (6) via Unauthorized Disposition <UnauthorizedDisposition@nara.gov> Sat, Jan 16, 2021 at 3:51 PM
Reply-to: (b) (6)
To: UnauthorizedDisposition@nara.gov, Andrea Riley <andrea.riley@nara.gov>, GRS_Team <GRS_Team@nara.gov>
Cc: (b) (6)

Best Viewed in HTML. Also see attachments. Pls have case manager for this complaint contact me to arrange a phone call

Actual, impending, or threatened damage, alienation, or unauthorized destruction of records.

January 16, 2020

NARA Complaint ICO Walter Reed Destruction of Records. FOIA RE Certified Packages**I. ALLEGATION.**

-

I am alleging that, despite numerous notices to preserve records, Walter Reed National Military Medical Center and named individuals FOIA Officer Judy, J Bizzell, Privacy Officer, Joseph E Davidge, former Commander Brigadier General Clark, Mail Room Supervisor Meki Gulley, FOIA Office mail orderly (b) (6) and others, destroyed records in anticipation of and during litigation and that further records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction for my April 26, 2014 FOIA request with my Requester Number FOIA WRNMC #14 1 seeking records related to certified mail tracking numbers 7012 1640000096651035 and 70121640000096654524 and my August 16, 2014 FOIA Appeal thereof My Request seeks records that would indicate what actions, if any, Defendants, (including Walter Reed's Director, Brigadier General Clark and Walter Reed's Privacy Compliance Administrator, Joseph E Davidge) took upon being notified of a potential Privacy breach in being unable to locate the two certified packages containing the Original 2012 DVD of my medical records and other sensitive documents See District of Colombia Civil Action No 16 421 KBJ, Dkt No 1, Complaint Ex 18, at 3, 4, 6, 7 4 and 19 – 44 (attached).

Additional records cited by Walter Reed's FOIA Officer in her declarations (Bizzell Decl) related to specific dates where she acted three years prior to her declarations (as enumerated in Dkt. No. 30, Plaintiff's List of Outstanding Records, Paragraph H) have either already been destroyed or are at risk of actual, impending, or

threatened damage, alienation, or unauthorized destruction as Bizzell now states that such records do not exist, including:

- Contemporaneous notes, memos or any other records related to Ms Bizzell's discussions [communications] with Ms. Gully and (b) (6) concerning the above certified mail tracking numbers, which took place on or about May 22, 2014; May 26, 2014; June 12, 2014; June 24, 2014; July 15, 2014; August 12, 2014; August 21, 2014; February 18, 2015; April 7, 2015; May 11, 2015; and November 6, 2015 [See ECF 18 1, Second Bizzell Decl , ¶¶ 29 33 dated **February 28, 2017**]
- Contemporaneous notes, memos or any other records related to the search of the USPS tracking website that Ms Bizzell alleges she performed on May 30, 2014 See ECF 18 1 ¶ 23 [dated **February 28, 2017**]
- Records relied upon by Ms Gulley on May 22, 2017, in acknowledging receipt of certified package 7012 1640 0000 9665 4524. See ECF 25-2 ¶32. [Third Bizzell Decl.]

Additionally, records of my February 15, 2015, April 5, 2015 and May 10, 2015 notices Walter Reed's FOIA Officer and others to preserve records for judicial review, including any forwarding or action taken as a result of them have either already been destroyed or are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction,

Walter Reed and Defense Health Agency legal staff, including Agency Counsel Paul Thomas Cygnarowicz, MD Bar 12- 9212150146, allegedly have participated in, are participating in, or believed to be participating in any such unlawful action, in part by falsely claiming in court documents that Walter Reed is not required to retain records subject to FOIA, and as officers of the Court are required to have reported such unlawful destruction of records of which they have knowledge, including destruction of records during litigation There is no attorney/client shield for participating in unlawful acts, if true, in my view.

The Agency's citations during litigation to not being required to retain records sought under FOIA and to deleting them under their records schedules indicates that they are actively deleting records that are subject to FOIA retention irrespective of the otherwise normal retention schedule Further records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction. See Attachment A. "Actual and Imminent Destruction of Mail Room & Other Records "

This alleged and apparently admitted destruction occurred and may be ongoing despite numerous notices to preserve records. Mail Room Supervisor Meki Gulley states that hard copy mail records responsive to this FOIA request were destroyed/shredded not only after they were sought via FOIA but after litigation commenced on March 2, 2016.

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II. IDENTIFICATION OF RECORDS.

I am seeking that in response to this NARA complaint, IAW 36 CFR 1230.16, Walter Reed account for (and produce if not destroyed) each of the specific records below sought in my FOIA request and appeal, which were known to exist at the time of my Request and Appeal and litigation

Information Requested via FOIA In my FOIA request, I am requesting all records from November 26, 2013 to present relating to certified mail tracking number 7012 1640 0000 9665 1035 (mailed on November 26, 2013) and certified mail tracking number 7012 1640 0000 9665 4524 (mailed on January 27, 2014). Information requested includes, but **is not limited to**:

- *Emails regarding package/mail delivery/pick-up, or anything related to the specific certified packages above between any of the following parties: Judy Bizzell, Joe. E. Davidge, Ms. Gully (Mail Services), (b) (6) (purported mail orderly for FOIA Office), Brigadier General Clark, (b) (6) any member of the command staff or any other party.*
- *Any material related to inquiry conducted in connection with these packages that may have been initiated by Brigadier General Clark or others;*
- *Letters or other correspondence including those sent to Brigadier General Clark;*
- *Records of phone logs for the telephones assigned to the above personnel and 301-670-6049, 301-295-4611, 301-295-4000, 301 295-0162*

See Dkt No 1, Complaint E 18, at 2

Plaintiff further delineate such records in his appeal where such records may be located, stating

Specific Information Known by WRNMMC to E i t

1 Mail Room Record The WRNMMC Mail Room is required to (and does) maintain records of certified mail received from USPS. The mail room notifies the parties to whom the mail is addressed and/or their designated mail orderly to pick up mail. This notification is done by email. The mail room obtains signatures from personnel who pick up certified mail and maintains logs. The mail room returns USPS form PS Form 3811 Domestic Return Receipt form and maintains appropriate records. These are agency records subject to FOIA. Attachment C clearly demonstrates that the mail room received both packages. According to statements made by (b) (6), USPS Consumer and Industry Contact Northern Virginia District (b) (6) and Ms. Gully (WRNMMC Mail Services), both packages were picked up by (b) (6) (purportedly the mail orderly for the WRNMMC FOIA/PA Office). WRNMMC FOIA/PA Office did not conduct a search for mail room records.

2. WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office Records. Both packages were addressed to Ms. Bizzell in the FOIA Office, who states that she did not receive them (see Attachment E). For the FOIA Officer to suggest that the packages were not received in that office can only mean that my medical records are missing or have been compromised and that appropriate Privacy Act breach reporting is required. WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office did not conduct a search of the HIPAA/Privacy Act/FOIA/Civil Liberties Office for records related to the packages, including the DVD containing my PHI/PII and other contents of the packages containing my PHI/PII.

3. Records of Letters or Other Correspondence Including Those Sent to Brigadier General Clark Please see the cover page image at Attachment D showing one letter that were sent to the Office of Brigadier General Clark. Please also see the USPS Form 3811, Certified Mail Receipt, for correspondence relevant to this FOIA request and the potential loss or compromise of my medical records referenced above. Upon receipt, these became agency records in WRNMMC possession that are clearly subject to FOIA. I am seeking the "Received For" agency records and received correspondence agency records. Moreover, WRNMMC is required to (and does) log in, file under appropriate record retention schedule and assign action to every correspondence addressed to the Commander. Such records are official agency records and required by law to be maintained. Moreover, there are records related to the assignment by the Command staff for action to be completed by WRNMMC action officers and records of completed action. This would be done by email or route sheet with a cover page. WRNMMC FOIA Office did not search for these agency records, bring them into the FOIA case file and provide them in response to my FOIA request.

4. Records of Phone Logs. Attachment C clearly shows that phone calls between the referenced numbers were made. WRNMMC FOIA Office did not conduct a search for phone records (likely provided by DISA).

5. Inquiry Initiated by Brigadier General Clark or His Staff. Please refer to Attachment D. To suggest that no inquiry or action of any kind was initiated by WRNMMC for this important HIPAA/Privacy Act issue is troubling and improbable. WRNMMC FOIA Office did not conduct a reasonable search for these records in the Office of the Commander, the legal office, PA Office, etc.

6. Records of Emails. *Agency email records* clearly exist, including emails that I sent to Ms. Bizzell and any forwarding of those emails. Please see Attachment E. Moreover, emails may exist related to other actions taken by Ms. Bizzell or personnel in the PA Office. These are agency records that must be maintained. To suggest that I may have some records that were not provided incident to my FOIA request is nonresponsive. I am seeking copies of the agency records that were brought under agency record retention schedules. WRNMMC must locate all such emails, maintain them in their FOIA case file and provide copies to me in response to my FOIA request. Any emails that have been deleted by the respective parties should be retrieved from WRNMMC backup email servers.

7. Records of Contact with the Defense Health Agency HIPAA/Privacy Act/FOIA/Civil Liberties Office.

8. A Dated, Serialized and Signed Copy of the WRNMMC Letter at Attachment B.

See Dkt. No. 1, Complaint Ex. 18, at 3, 4.

As to certified mail records, Defendants maintain extensive electronic records. Walter Reed: (1) maintains PS Form 3883, Firm Delivery Receipt for Accountable and Bulk Delivery Mail upon receiving packages from USPS, identifying the article number article number and delivery "mail for," which is signed and dated by the Mail Services person receiving the packages; (2) scans each certified mail package, including the signature of the Walter Reed employee when the employee picks up the package; (3) adds an internal bar-coded label to the certified package with the name of the person to receive the mail and the office for tracking in an internal mail delivery system; (4) maintains USPS Form 3849 Delivery Notice/Reminder/Receipt, which records the signature of the person picking up the package, and; (5) maintains emails to and from the Mail Services Manager, Ms. Meki Gulley. See Dkt. No. 22-2, Hammond Decla. ¶¶ 64, 65; Dkt. No. 24-8, Ex. B-7; Dkt. No. 22-3 ¶¶ 197, 198.

The above records may have been destroyed or are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction, as Bizzell/Gulley claim that they do not exist.

III. SUPPORTING RECORDS

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The attached supporting document "Destruction of Records" documents the incontrovertible existence of records at the time of my FOIA request and appeal, numerous specific notices to Walter Reed to preserve them for judicial review, Walter Reed acknowledgements of such preservation notices, Walter Reed statements that they are not required to preserve records and a statement by Mail Room Supervisor Meki Gulley that PAPER records were destroyed AFTER the start of litigation on March 2, 2016. Citations therein are to Case 1:16-cv-00421-KBJ documents available at Pacer.gov.

16-421-KBJ, Dkt. No. 1, Complaint Ex. 18 is attached.

IV. APPLICABLE RETENTION SCHEDULE, NARA GRS 4.2 Item 20

020	Access and disclosure request files. Case files created in response to requests for information under the Freedom of Information Act (FOIA), Mandatory Declassification Review (MDR) process, Privacy Act (PA), Classification Challenge, and similar access programs, and completed by: <ul style="list-style-type: none"> • granting the request in full • granting the request in part • denying the request for any reason including: <ul style="list-style-type: none"> o inability to fulfill request because records do not exist o inability to fulfill request because request inadequately describes records o inability to fulfill request because search or reproduction fees are not paid 	Temporary. Destroy 6 years after final agency action or 3 years after final adjudication by the courts, whichever is later, but longer retention is authorized if required for business use.	DAA-GRS-2016-00020001
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V. 36 CFR § 1230.3

Unlawful or accidental destruction (also called unauthorized destruction) means disposal of an unscheduled or permanent record; disposal prior to the end of the [NARA](#)-approved retention period of a temporary record (other than court-ordered disposal under [§ 1226.14\(d\)](#) of this subchapter); and disposal of a record subject to a **FOIA request**, litigation hold, or any other hold requirement to retain the records.

VI. 44 U.S. CODE § 3106 - UNLAWFUL REMOVAL, DESTRUCTION OF RECORDS

(a) **FEDERAL AGENCY NOTIFICATION.**—

The head of each Federal agency shall notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, corruption, deletion, erasure, or other destruction of records in the custody of the agency, and with the assistance of the Archivist shall initiate action through the Attorney General for the recovery of records the head of the Federal agency knows or has reason to believe have been unlawfully removed from that agency, or from another Federal agency whose records have been transferred to the legal custody of that Federal agency.

(b) **ARCHIVIST NOTIFICATION.**—

In any case in which the head of a Federal agency does not initiate an action for such recovery or other redress within a reasonable period of time after being notified of any such unlawful action described in subsection (a), or is participating in, or believed to be participating in any such unlawful action, the Archivist shall request the Attorney General to initiate such an action, and shall notify the Congress when such a request has been made.

([Pub. L. 90–620](#), Oct. 22, 1968, [82 Stat. 1298](#); [Pub. L. 98–497](#), title I, [§ 107\(b\)\(21\)](#), title II, [§ 203\(b\)](#), Oct. 19, 1984, [98 Stat. 2290](#), 2294; [Pub. L. 113–187](#), [§ 4](#), Nov. 26, 2014, [128 Stat. 2009](#).)

I would like to speak with the case manager handling this complaint, which may be LAURENCE BREWER Chief Records Officer for the U.S. Government or a subordinate. Please email me with contact information and an available time.

This is submitted upon information, belief and records available to me.

With my respect,

/s/

Robert Hammond

January 16, 2020

Whistleblower

Attachments:

- A. Actual and Imminent Destruction of Mail Room & Other Records
- B. Case 16-421-KBJ, Dkt. No. 1, Complaint Ex. 18
- C. Meki Gulley Admitted Destruction, Shredding of Mail Records During Litigation
- D. Ex. B-4_ USPS_ (b) (6) Signed Contemporaneous Notes



NARA Complaint ICO Walter Reed Destruction of Records FOIA RE Certified Packages w. attach.pdf
6988K

perseverance2013 via Unauthorized Disposition <UnauthorizedDisposition@nara.gov> Sat, Jan 16, 2021 at 9:59 PM
Reply-To: (b) (6)
To: UnauthorizedDisposition@nara.gov, Andrea Riley <andrea.riley@nara.gov>, GRS_Team <GRS_Team@nara.gov>
Cc: (b) (6)

Best Viewed in HTML. Also see attachments. Pls have case manager for this complaint contact me to arrange a phone call.

In furtherance to email of January 16, 2021 3:52 PM below:

1. Please notify the Agency by phone within 5 days. Actual, impending, or threatened damage, alienation, or unauthorized destruction of records.
2. Please see attached Corrected complaint more succinctly stating the allegation for NARA to summarize in your contact with the Agency.
3. Please accurately state my allegation. If you omit the names and positions, it might read:

We have received an allegation that, despite numerous notices to preserve records, Walter Reed National Military Medical Center, named individuals and others, destroyed records in anticipation of and during litigation and that further records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction for an April 26, 2014 FOIA request with the Requester Number FOIA WRNMC

#14 1 seeking records related to certified mail tracking numbers 7012 1640000096651035 and 70121640000096654524 and the August 16, 2014 FOIA Appeal thereof. Records include those records that would indicate what actions, if any, Defendants, (including named individuals) took upon being notified of a potential Privacy breach in being unable to locate the two certified packages to one of which contained the Original 2012 DVD of a patient's medical records and the other contained sensitive documents See District of Columbia Civil Action No. 16-421-KBJ, Dkt. No. 1, Complaint Ex. 18, at 3, 4, 6, 7 4 and 19 – 44 (attached)

Additionally, records of notices to preserve records, the forwarding of those notices and any actions taken in response to them, and numerous records of Walter Reed's FOIA Officer's actions/searches/contacts with others cited with exact dates in her declarations three years later during litigation, are alleged to have been destroyed or are in imminent danger of being destroyed No one could recall such exact dates of actions/searches/contacts three years later during litigation without records, yet when sought during litigation in response to those declarations, records are missing

From: (b) (6)
Sent: Saturday, January 16, 2021 3:52 PM
To: Unauthorized Disclosure@nara.gov; 'Andrea Riley' andrea.riley@nara.gov ; 'GRS Team' GRS.Team@nara.gov
Cc: (b) (6)
Subject: NARA Complaint ICO Walter Reed Destruction of Records. FOIA RE Certified Packages
Importance: High

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Corrected. NARA Complaint ICO Walter Reed Destruction of Records FOIA RE Certified Packages w. attach.pdf
7098K

perseverance2013 via Unauthorized Disposition <UnauthorizedDisposition@nara.gov> Wed, Jan 27, 2021 at 6:10 AM
Reply: (b) (6)
To: UnauthorizedDisposition@nara.gov, Andrea Riley <andrea.riley@nara.gov>, GRS_Team <GRS_Team@nara.gov>
(b) (6)

(Best Viewed in HTML)

In furtherance to emails below:

Suffice it to say that records include:

- the records relied upon by Ms. Meki Gulley in her February 21, 2014 conversation with (b) (6) USPS, in which she stated that, "the Certify with label # 70121640000096654524 was picked up on February 12, 2012 by (b) (6). The Certify with label # 70121640000096651035 was picked up on December 17, 2013 by (b) (6) Compl E 18, at 11

Thank you for your integrity and your diligence as you move forward with your investigation

With my respect,

Robert Hammond

Whistleblower

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Specific Information Known by WRNMMC to Exist.

1. Mail Room Records. The WRNMMC Mail Room is required to (and does) maintain records of certified mail received from USPS. The mail room notifies the parties to whom the mail is addressed and/or their designated mail orderly to pick up mail. This notification is done by email. The mail room obtains signatures from personnel who pick up certified mail and maintains logs. The mail room returns USPS form PS Form 3811 Domestic Return Receipt forms and maintains appropriate records. These are agency records subject to FOIA. Attachment C clearly demonstrates that the mail room received both packages. According to statements made by (b) (6), USPS Consumer and Industry Contact Northern Virginia District (b) (6) and Ms. Gully (WRNMMC Mail Services), both packages were picked up by (b) (6) (purportedly the mail orderly for the WRNMMC FOIA/PA Office). WRNMMC FOIA/PA Office did not conduct a search for mail room records.

2. WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office Records. Both packages were addressed to Ms. Bizzell in the FOIA Office, who states that she did not receive them (see Attachment E). For the FOIA Officer to suggest that the packages were not received in that office can only mean that my medical records are missing or have been compromised and that appropriate Privacy Act breach reporting is required. WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office did not conduct a search of the HIPAA/Privacy Act/FOIA/Civil Liberties Office for records related to the packages, including the DVD containing my PHI/PII and other contents of the packages containing my PHI/PII.

3. Records of Letters or Other Correspondence Including Those Sent to Brigadier General Clark. Please see the fax cover page images at Attachment D showing some letters that were sent to the Office of Brigadier General Clark. Please also see the USPS Form 3811, Certified Mail Receipt, for correspondence relevant to this FOIA request and the potential loss or compromise of my medical records referenced above. Upon receipt, these became agency records in WRNMMC possession that are clearly subject to FOIA. I am seeking the "Received Fax" agency records and received correspondence agency records. Moreover, WRNMMC is required to (and does) log in, file under appropriate record retention schedule and assign action to every correspondence addressed to the Commander. Such records are official agency records and required by law to be maintained. Moreover, there are records related to the assignment by the Command staff for action to be completed by WRNMMC action officers and

records of completed action. This would be done by email or route sheet with a cover page. WRNMMC FOIA Office did not search for these agency records, bring them into the FOIA case file and provide them in response to my FOIA request.

4. Records of Phone Logs. Attachment C clearly shows that phone calls between the referenced numbers were made. WRNMMC FOIA Office did not conduct a search for phone records (likely provided by DISA).

5. Inquiry Initiated by Brigadier General Clark or His Staff. Please refer to Attachment D. To suggest that no inquiry or action of any kind was initiated by WRNMMC for this important HIPAA/Privacy Act issue is troubling and improbable. WRNMMC FOIA Office did not conduct a reasonable search for these records in the Office of the Commander, the legal office, PA Office, etc.

6. Records of Emails. *Agency email records clearly exist, including emails that I sent to Ms. Bizzell and any forwarding of those emails. Please see Attachment E. Moreover, emails may exist related to other actions taken by Ms. Bizzell or personnel in the PA Office. These are agency records that must be maintained. To suggest that I may have some records that were not provided incident to my FOIA request is nonresponsive. I am seeking copies of the agency records that were brought under agency record retention schedules. WRNMMC must locate all such emails, maintain them in their FOIA case file and provide copies to me in response to my FOIA request. Any emails that have been deleted by the respective parties should be retrieved from WRNMMC backup email servers.*

7. Records of Contact with the Defense Health Agency HIPAA/Privacy Act/FOIA/Civil Liberties Office.

8. A Dated, Serialized and Signed Copy of the WRNMMC Letter at Attachment B.

See Dkt. No. 1, Complaint Ex. 18, at 3, 4.

As to certified mail records, Defendants maintain extensive electronic records. Walter Reed: (1) maintains PS Form 3883, Firm Delivery Receipt for Accountable and Bulk Delivery Mail upon receiving packages from USPS, identifying the article number article number and delivery “mail for,” which is signed and dated by the Mail Services person receiving the packages; (2) scans each certified mail package, including the signature of the Walter Reed employee when the employee picks up the package; (3) adds an internal bar-coded label to the certified package with the name of the person to receive the mail and the office for tracking in an internal mail delivery system; (4) maintains USPS Form 3849 Delivery Notice/Reminder/Receipt, which records the signature of the person picking up the package, and; (5) maintains emails to and from the Mail Services Manager, Ms. Meki Gulley. See Dkt. No. 22-2, Hammond Decla. ¶¶ 64, 65; Dkt. No. 24-8, Ex. B-7; Dkt. No. 22-3 ¶¶ 197, 198.

The above records may have been destroyed or are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction, as Bizzell/Gulley claim that they do not exist.

III. SUPPORTING RECORDS

The attached supporting document “Destruction of Records” documents the incontrovertible existence of records at the time of my FOIA request and appeal, numerous specific notices to Walter Reed to preserve them for judicial review, Walter Reed acknowledgements of such preservation notices, Walter Reed statements that they are not required to preserve records and a statement by Mail Room Supervisor Meki Gulley that PAPER records were destroyed AFTER the start of litigation on March 2, 2016. Citations therein are to Case 1:16-cv-00421-KBJ documents available at Pacer.gov.

16-421-KBJ, Dkt. No. 1, Complaint Ex. 18 is attached.

IV. APPLICABLE RETENTION SCHEDULE, NARA GRS 4.2 Item 20

020	Access and disclosure request files. Case files created in response to requests for information under the Freedom of Information Act (FOIA), Mandatory Declassification Review (MDR) process, Privacy Act (PA), Classification Challenge, and similar access programs, and completed by: <ul style="list-style-type: none"> • granting the request in full • granting the request in part • denying the request for any reason including: <ul style="list-style-type: none"> o inability to fulfill request because records do not exist o inability to fulfill request because request inadequately describes records o inability to fulfill request because search or reproduction fees are not paid 	Temporary. Destroy 6 years after final agency action or 3 years after final adjudication by the courts, whichever is later, but longer retention is authorized if required for business use.	DAA-GRS-2016-0002-0001
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V. 36 CFR § 1230.3

Unlawful or accidental destruction (also called unauthorized destruction) means disposal of an unscheduled or permanent record; disposal prior to the end of the [NARA](#)-approved retention period of a temporary record (other than court-ordered disposal under [§ 1226.14\(d\)](#) of this subchapter); and disposal of a record subject to a **FOIA request**, litigation hold, or any other hold requirement to retain the records.

VI. 44 U.S. CODE § 3106 - UNLAWFUL REMOVAL, DESTRUCTION OF RECORDS

(a)FEDERAL AGENCY NOTIFICATION.—

The head of each Federal agency shall notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, corruption, deletion, erasure, or other destruction of records in the custody of the agency, and with the assistance of the Archivist shall initiate action through the Attorney General for the recovery of records the head of the Federal agency knows or has reason to believe have been unlawfully removed from that agency, or from another Federal agency whose records have been transferred to the legal custody of that Federal agency.

(b)ARCHIVIST NOTIFICATION.—

In any case in which the head of a Federal agency does not initiate an action for such recovery or other redress within a reasonable period of time after being notified of any such unlawful action described in subsection (a), or is participating in, or believed to be participating in any such unlawful action, the Archivist shall request the Attorney General to initiate such an action, and shall notify the Congress when such a request has been made.

([Pub. L. 90-620](#), Oct. 22, 1968, [82 Stat. 1298](#); [Pub. L. 98-497, title I, § 107\(b\)\(21\)](#), title II, § 203(b), Oct. 19, 1984, [98 Stat. 2290](#), 2294; [Pub. L. 113-187, § 4](#), Nov. 26, 2014, [128 Stat. 2009](#).)

I would like to speak with the case manager handling this complaint, which may be LAURENCE BREWER Chief Records Officer for the U.S. Government or a subordinate. Please email me with contact information and an available time.

This is submitted upon information, belief and records available to me.

With my respect,

/s/

Robert Hammond
Whistleblower

January 16, 2020

Attachments:

- A. Actual and Imminent Destruction of Mail Room & Other Records
- B. Case 16-421-KBJ, Dkt. No. 1, Complaint Ex. 18
- C. Meki Gulley Admitted Destruction, Shredding of Mail Records During Litigation
- D. Ex. B-4_ USPS_ (b) (6) Signed Contemporaneous Notes

Robert Hammond

(b) (6)

August 16, 2014

Office of General Counsel
National Capital Region Medical Directorate
Defense Health Agency
8901 Wisconsin Avenue (Building 27)
Bethesda, MD 20889
Phone: (703) 681-6012
E-mail: OGCFOIAAppeals@tma.osd.mil

Subject: Appeal of my FOIA Request - certified mail tracking numbers 7012
1640 0000 9665 1035 and 7012 1640 0000 9665 4524

Requester Control Number: FOIA WRNMC #14-I

References: (a) The Freedom of Information Act
(b) The Privacy Act
(c) CFR 164.526
(d) DoD 5700.7-R, September 1998, DoD Freedom of Information Act (FOIA)
Program
(e) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation
(e) Joint publication of U.S. Department of Justice, Executive Office of the
President and U.S. General Services Administration of July 2011: "Your Right to
Federal Records" (see <http://publications.usa.gov/USAPubs.php?PubID=6080>)
(g) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program

Dear Sir:

This appeal is submitted under the references above for my FOIA request at Attachment A. My FOIA request was submitted by email to Ms. Judy Bizzell (judy.j.bizzell.civ@health.mil) of the Walter Reed National Military Medical Center (WRNMMC) FOIA Office on April 28, 2014 (their fax machine was not working). The WRNMMC undated, unserialized, unsigned FOIA response is at Attachment B. This reply was received by email from Ms. Bizzell at 7/25/2014 5:11:48 P.M. Eastern Daylight Time. I have requested a dated, serialized and signed copy of Ms. Bizzell's letter, which I have not received. This appeal is only applicable to my FOA request at Attachment A; WRNMMC referenced multiple FOIA requests in their reply which may be the subject of separate subsequent appeals.

Background. This request relates to *potential* and loss or compromise of both Personal Health

Information (PHI) and Personally Identifiable Information (PII) (including Health Insurance Portability and Accountability Act (HIPAA)/Privacy Act (P/A) information) disruption of United States Postal Service (USPS) mail, inaccurate statements by the WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office to an appellate authority and unauthorized removal of an official WRNMMC agency record. The certified packages contained correspondence to the FOIA Officer that included my PHI and PII and a DVD containing my PHI medical records, along with PII such as my social security number. The DVD is clearly labeled and known by WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office to contain my PHI/PII.

Information Requested via FOIA. In my FOIA request, I am requesting **all** records from November 26, 2013 to present relating to certified mail tracking number 7012 1640 0000 9665 1035 (mailed on November 26, 2013) and certified mail tracking number 7012 1640 0000 9665 4524 (mailed on January 27, 2014). Information requested includes, but **is not limited to**:

- Emails regarding package/mail delivery/pick-up, or anything related to the specific certified packages above between any of the following parties: Judy Bizell, Joe. E. Davidge, Ms. Gully (Mail Services), (b) (6) purported mail orderly for FOIA Office), Brigadier General Clark, (b) (6) any member of the command staff or any other party.
- Any material related to inquiry conducted in connection with these packages that may have been initiated by Brigadier General Clark or others;
- Letters or other correspondence including those sent to Brigadier General Clark;
- Records of phone logs for the telephones assigned to the above personnel and [REDACTED]

Basis for Appeal.

I am appealing that the WRNMMC basis for denying release or withholding of agency records is not a permissible/enumerated reason under the FOIA and reference (d). The WRNMMC reply *"We find that (other than the emails you currently have), there is No Record for your request for further correspondences, emails, etc., regarding tracking numbers 7012 1640 0000 9665 1035 or 7012 1640 0000 9665 4524. This matter is closed in this office."* is not a permissible response/exemption/exclusion for denying release or withholding of agency records under the FOIA or reference (d). "No Record" means that there is no agency record of any kind, which is clearly not the case. There is no such exclusion/permissible reason for denial based on records that WRNMMC presumes that I have that were not provided in response to my FOIA request. I am requesting agency records from agency files; my FOIA request is compliant in every respect.

Further, I am appealing that WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office Office did not:

- (1) provide a tracking number within ten days of receipt of my original request as required by the FOIA;
- (2) provide a reply within the statutory and regulatory twenty-day time period;
- (3) conduct a reasonable search for obvious records that WRNMMC knows exist;
- (4) provide responsive agency records in WRNMMC possession at the time of my request.

Appellate Authority Action Requested. I am asking that:

- (1) each element of my basis for appeal be addressed separately;
- (2) each element of "Specific Information Known by WRNMMC to Exist" described below be addressed separately;
- (3) exactly what search was done for each of the items enumerated in this appeal be addressed, including what search was done for the certified packages and their contents that includes the DVD containing my medical records and other PHI/PII;
- (4) each element of my appeal be sustained;
- (5) my FOIA request be remanded back to WRNMMC for direct reply to me; and,
- (6) I be granted new appellate rights following a subsequent reply by WRNMMC.

Specific Information Known by WRNMMC to Exist.

1. **Mail Room Records.** The WRNMMC Mail Room is required to (and does) maintain records of certified mail received from USPS. The mail room notifies the parties to whom the mail is addressed and/or their designated mail orderly to pick up mail. This notification is done by email. The mail room obtains signatures from personnel who pick up certified mail and maintains logs. The mail room returns USPS form PS Form 3811 Domestic Return Receipt forms and maintains appropriate records. These are agency records subject to FOIA. Attachment C clearly demonstrates that the mail room received both packages. According to statements made by (b) (6), USPS Consumer and Industry Contact Northern Virginia District (b) (6) and Ms. Gully (WRNMMC Mail Services), both packages were picked up by (b) (6) purportedly the mail orderly for the WRNMMC FOIA/PA Office). WRNMMC FOIA/PA Office did not conduct a search for mail room records.
2. **WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office Records.** Both packages were addressed to Ms. Bizzell in the FOIA Office, who states that she did not receive them (see Attachment E). For the FOIA Officer to suggest that the packages were not received in that office can only mean that my medical records are missing or have been compromised and that appropriate Privacy Act breach reporting is required. WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office did not conduct a search of the HIPAA/Privacy Act/FOIA/Civil Liberties Office for records related to the packages, including the DVD containing my PHI/PII and other contents of the packages containing my PHI/PII.
3. **Records of Letters or Other Correspondence Including Those Sent to Brigadier General Clark.** Please see the fax cover page images at Attachment D showing some letters that were sent to the Office of Brigadier General Clark. Please also see the USPS Form 3811, Certified Mail Receipt, for correspondence relevant to this FOIA request and the potential loss or compromise of my medical records referenced above. Upon receipt, these became agency records in WRNMMC possession that are clearly subject to FOIA. I am seeking the "Received Fax" agency records and received correspondence agency records. Moreover, WRNMMC is required to (and does) log in, file under appropriate record retention schedule and assign action to every correspondence addressed to the Commander. Such records are official agency records and required by law to be maintained. Moreover, there are records related to the assignment by the Command staff for action to be completed by WRNMMC

action officers and records of completed action. This would be done by email or route sheet with a cover page. WRNMMC FOIA Office did not search for these agency records, bring them into the FOIA case file and provide them in response to my FOIA request.

4. **Records of Phone Logs.** Attachment C clearly shows that phone calls between the referenced numbers were made. WRNMMC FOIA Office did not conduct a search for phone records (likely provided by DISA).
5. **Inquiry Initiated by Brigadier General Clark or His Staff.** Please refer to Attachment D. To suggest that no inquiry or action of any kind was initiated by WRNMMC for this important HIPAA/Privacy Act issue is troubling and improbable. WRNMMC FOIA Office did not conduct a reasonable search for these records in the Office of the Commander, the legal office, PA Office, etc.
6. **Records of Emails.** Agency email records clearly exist, including emails that I sent to Ms. Bizzell and any forwarding of those emails. Please see Attachment E. Moreover, emails may exist related to other actions taken by Ms. Bizzell or personnel in the PA Office. These are agency records that must be maintained. To suggest that I may have some records that were not provided incident to my FOIA request is nonresponsive. I am seeking copies of the agency records that were brought under agency record retention schedules. WRNMMC must locate all such emails, maintain them in their FOIA case file and provide copies to me in response to my FOIA request. Any emails that have been deleted by the respective parties should be retrieved from WRNMMC backup email servers.
7. **Records of Contact with the Defense Health Agency HIPAA/Privacy Act/FOIA/Civil Liberties Office.**
8. **A Dated, Serialized and Signed Copy of the WRNMMC Letter at Attachment B.**

Some Applicable References.

- Reference (e) states that for requests “that will require more than ten days for the agency to process, the FOIA requires agencies to assign a tracking number to your request. Each agency must provide a telephone number or website by which a requester can use the assigned tracking number to obtain information about the status of a pending request.” DoD 5400.11-R, May 14, 2007, paragraph C3.1.1O. states: “Time Limits. “DoD Components normally shall provide access within 20 working days after receipt of the request. If access cannot be given within the 20 working day period, the requester shall be notified in an interim response.” WRNMMC did not follow the FOIA requirement to provide me a tracking number within ten days and did not then comply with statutory and regulatory requirements to complete the request within twenty days.
- Reference (g) states, “DoD personnel are expected to comply with the FOIA, this Regulation, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust.” The WRNMMC FOIA/Privacy Office has not met that standard.

WRNMMC has not provided the responsive agency records. Again, as an integral part of this appeal, I am requesting that WRNMMC specifically enumerate what searches were done with regard to the specific items enumerated above, including the search for the DVD containing my medical records and other PHI/PII.

This appeal is separate and distinct from any other appeals that I may file and may not be combined with any other appeal. If you deny all or any part of this appeal, please cite each specific exemption you think justifies your determination and notify me of further remedies available under the law.

A copy of this request is being forwarded to the WRNMMC Privacy Officer for appropriate Privacy Act breach reporting, to the WRNMMC FOIA Officer for retention in the FOIA case file and to the WRNMMC Commanding Officer as notice of agency records subject to this FOIA request and appeal. This appeal will also be forwarded to interested parties for information.

I greatly appreciate your thoughtful consideration of my request. Please contact me if you have any questions regarding this request. Thank you in advance.

With my respect,



Robert Hammond

Attachments: A - My FOIA Request Requestor Number #14-I dated April 26, 2014; subject:
FOIA Tracking Numbers
B - WRNMMC undated, unsigned FOIA response 5700; 00QM00
C - USPS Tracking Replies for Certified Mail 70121640000096654524 and
70121640000096651035
D - Examples of Correspondence Faxed/Mailed to BG Clark
E - Examples Email Correspondence That Are Agency Records Subject to My
FOIA Request

Copy to: Brigadier General Clark, WRNMMC Commander
Mr. Joe E. Davidge, WRNMMC Department Chief, HIPAA/Privacy Act/FOIA/Civil
Liberties Office
Ms. Judy Bizzell, WRNMMC FOIA Officer

Attachment B to NARA Complaint

**Attachment A: My FOIA Request Requestor Number #14-I
dated April 26, 2014; subject: FOIA Tracking Numbers**

Robert Hammond

(b) (6)

April 26, 2014

Ms. Judy Bizzell
Freedom of Information Act (FOIA) Officer
Walter Reed National Military Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: FOIA Request - certified mail tracking numbers 7012 1640 0000 9665
1035 and 7012 1640 0000 9665 4524

Requester Control Number: FOIA WRNMC #14-I

References: (a) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records"
(b) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(c) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
(d) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation

Dear Ms. Bizzell,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 522. If you deny all or any part of this request, please cite each specific exemption you think justifies your refusal to release the information and notify me of appeal procedures available under the law.

I am requesting all records from November 26, 2013 to present relating to certified mail tracking number 7012 1640 0000 9665 1035 (mailed on November 26, 2013) and certified mail tracking number 7012 1640 0000 9665 4524 (mailed on January 27, 2014). Information requested includes, but is not limited to:

- Emails regarding package/mail delivery/pick-up, or anything related to the specific certified packages above between any of the following parties: Judy Bizzell, Joe. E. Davidge, Ms. Gully (Mail Services), **(b) (6)** (mail orderly for FOIA Office), Brigadier General Clark, **(b) (6)**, **(b) (6)**, any member of the command staff or any other party.
- Any material related to inquiry conducted in connection with these packages that may

**Attachment A: My FOIA Request Requestor Number #14-I
dated April 26, 2014; subject: FOIA Tracking Numbers**

have been initiated by Brigadier General Clark or others;

- Letters or other correspondence including those sent to Brigadier General Clark;
- Records of phone logs for the telephones assigned to the above personnel and 301-670-6049, 301-295-4611, 301-295-4000, 301-295-0162.

I agree to pay fees for searching or copying the records up to \$400. If the fees exceed this amount please advise me of the cost. I am a private citizen seeking this information. I do not believe that there should be any charge for providing these records.

Please cite the requester control number and include a copy of this request in your reply. This request is an agency record in its own right and providing a copy of this request is an integral part of my FOIA request, which helps to ensure that you fully address my request. Do not reply to more than one requestor control number in a single letter.

Reference (a) states that for requests 'that will require more than ten days for the agency to process to FOIA requires agencies to assign a tracking number to your request. Each agency must provide a telephone number or website by which a requester can use the assigned tracking number to obtain information about the status of a pending request.' DoD 5400.11-R, May 14, 2007, paragraph C3.1.1O. states: "Time Limits. "DoD Components normally shall provide access within 20 working days after receipt of the request. If access cannot be given within the 20 working day period, the requester shall be notified in an interim response." Please provide me a tracking number for this request.

Reference (c) states, "DoD personnel are expected to comply with the FOIA, this Regulation, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust."

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request. If you deem that any portion of my request is unclear, answer the remaining portions and I will perfect a request for additional material as needed.

With my respect,

Robert Hammond



DEFENSE HEALTH AGENCY
WALTER REED NATIONAL MILITARY MEDICAL CENTER
OFFICE OF THE DIRECTOR
2901 WISCONSIN AVENUE
BETHESDA, MD 20889-5600

IN REPLY REFER TO
5700
00QM00

Robert Hammond

(b) (6)

Dear Mr. Hammond:

SUBJECT: FREEDOM OF INFORMATION ACT REQUEST – #14-48 (FOIA Tracking Numbers)

This responds in part to your Freedom of Information Act requests received in this office on June 3, 2014. The requests is assigned case number 14-48. Please refer to our FOIA Office case numbers when making inquiries.

In your request you seek "...tracking numbers and dates that the requests were received for the FOIA requests at the attachment." NOTE: Your B through U

In reviewing your attachment, we find that the following have been asked and and interim response given for Personnel records of: Mr. Cornell Floyd, Ms. Judy Bizzell, Ms. Barbara Moidel, Ms. Judy Logeman, Mr. Joe Davidge, Mr. Brice Goodwin, and Mr. Thurman McCall. You will be given a final response upon receipt of documents. WRNMMC #14-31 to 36 & 40 to 41.

We find that (other than the emails you currently have), there is No Record for your request for further correspondences, emails, etc., regarding tracking numbers 7012 1640 0000 9665 1035 or 7012 1640 0000 9665 4524. This matter is closed in this office. WRNMMC #14-38

Also we find that your request for FOIA tracking numbers (WRNMMC #14-43) has been asked and answered. A copy of our response is enclosed. This matter is closed in this office.

We further find that there is No Record for your request for a "Disk Chain of Custody." You were provided a copy of the mailing receipt previously. WRNMMC #14-39. This matter is closed in this office

Per your request, a copy of the front side of disk held in this office is provided with this correspondence; WRNMMC #14-46. This matter is now closed in this office.

Retention schedule of DD Form 2870 will be provided upon receipt (WRNMMC #14-44).

SUBJECT: Freedom of Information Act Request - 14-43

Such an appeal should be addressed to:

Defense Health Agency Office of General Counsel
National Capitol Region Medical Directorate
Attn: Mr. Paul Cygnarowicz
8901 Wisconsin Avenue (Bldg 27)
Bethesda, MD 20889

The appeal must be postmarked within 60 calendar days from the date of this letter, and you should attach this letter with a statement regarding the basis of your appeal. I recommend you annotate both the letter of appeal and envelope with the words "Freedom of Information Act Appeal."

If you have questions of this office, please call or e-mail me at (301) 400-2315 or Judy.J.Bizzell.civ@health.mil.

Sincerely,

J. J. BIZZELL
By Direction

Attachment C: Certified Mail 70121640000096654524 and 70121640000096651035

From: [REDACTED]

(b) (6)

Sent: 2/21/2014 4:08:36 P.M. Eastern Standard Time

Subj: Certified Not Delivered 7012 1640 0000 9665 1035

Good afternoon Mr. Hammond,

On Dec. 26 you came into the office to have me track this certified letter. As of Nov. 27, 2013 the only information in the tracking system was that it left Merrifield. The package never reached its intended destination. I called various numbers in an effort to locate the package. The 1st number was to the Post office in Bethesda MD. 301-670-6049. I called a few other numbers that were associated with Walter Reed Medical Center. The numbers were 301-295-4611, 301-295-4000, 301-295-0162. Unfortunately none of these numbers led to me finding your package.

Please accept my sincere apology for the inconvenience you have experienced as a result of the post office not meeting its standard.

Thank you,

JOHNEISE R. THOMAS
Consumer Affairs and Claims
8409 Lee Highway
Merrifield, VA. 22081

(b) (6)

Attachment B to NARA Complaint

Attachment C: Certified Mail 70121640000096654524 and 70121640000096651035

From: (b) (6)
(b) (6)
Sent: 2/21/2014 4:11:47 P.M. Eastern Standard Time
Subj: Certified Mail 70121640000096654524 and 70121640000096651035

Mr. Hammond,

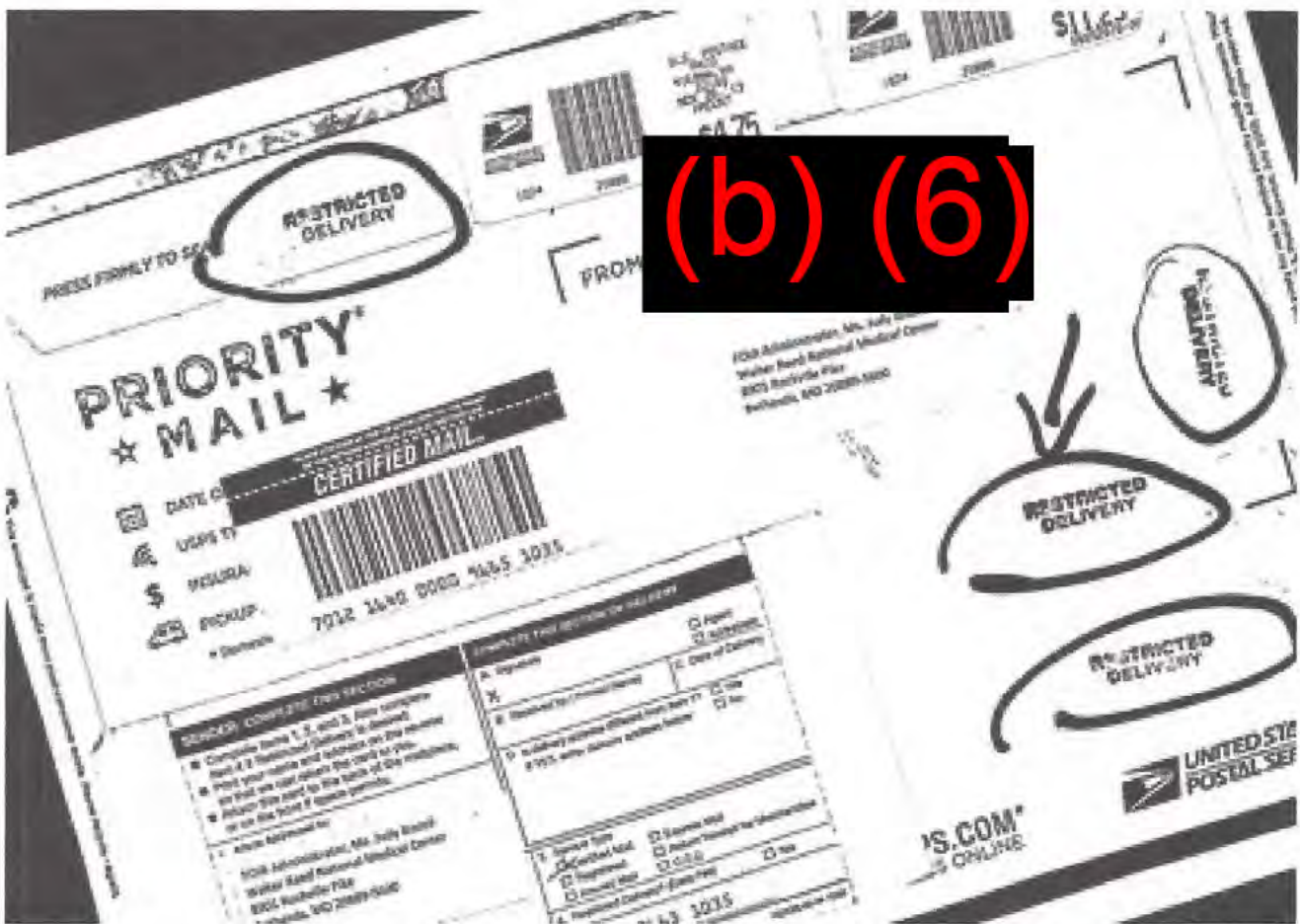
On February 21, 2014 I spoke with Ms. Gulley who is the Manager of the Bethesda Hospital Mail Services about your two certified mailings. She investigated and determined that the Certify with label # 70121640000096654524 was picked up on February 12, 2012 by (b) (6). The Certify with label # 70121640000096651035 was picked up on December 17, 2013 by (b) (6).

(b) (6) is the mail orderly for the FOIA Officer Judy Bizzell.

Ms. Gulley's contact telephone number is (b) (6).

Mail for Bethesda is sorted and dispatched from the Anacostia Plant Facility.

Below is an image of your package.



Attachment C: Certified Mail 70121640000096654524 and 70121640000096651035

(b) (6)

Consumer and Industry Contact

Northern Virginia District

8409 Lee Highway, Room 102

Merrifield, VA 22081

(b) (6)

Fax (703) 204-3075

(b) (6)

Have a WONDERFUL Day!

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

7012 3460 0001 5107 8388

U.S. Postal Service TM	
CERTIFIED MAIL TM RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$ 4.00
Certified Fee	\$ 3.00
Return Receipt Fee (Endorsement Required)	\$ 2.70
Restricted Delivery Fee (Endorsement Required)	\$ 0.00
Total Postage & Fees	\$ 9.70

VIENNA, VA
APR 24
Postmark
MAY 2014
USPS 22180-9998

Sent To	
Street, Apt. No., or PO Box No.	BG Jeffrey B. Clark Walter Reed National Medical Center 8901 Rockville Pike Bethesda, MD 20889-5600
City, State, ZIP+4	

PS Form 3800, August 2006 See Reverse for Instructions

Appeal to FOIA WRNMC #14-1

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Robert Hammond

(b) (6)

April 17, 2014

Brigadier General Jeffrey B. Clark
Director,
Walter Reed National Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: Request for Inquiry Regarding Two Certified Packages Containing Personally Identifiable Information (PII)/Protected Health Information (PHI)

Reference: (a) My letter dated February 25, 2014, subject Request for Inquiry Regarding Two Certified Packages Containing Personally Identifiable Information (PII)/Protected Health Information (PHI); follow up

Dear Brigadier General Clark,

I am following up on my letter at reference (a), which I have included for your convenience. Please acknowledge receipt of my letter and provide the status of your inquiry.

I asked that you initiate an inquiry into the handling of two certified mailings containing my Protected Health Information (PHI) and Personally Identifiable Information (PII): certified mail tracking number 7012 1640 0000 9665 1035 (mailed on November 26, 2013) and certified mail tracking number 7012 1640 0000 9665 4524 (mailed on January 27, 2014).

To be clear, the restricted delivery package with tracking number 012 1640 0000 9665 1035 containing a DVD with hundreds of pages of my medical records has as not been accounted for. **A privacy breach has clearly occurred along with potential criminal violations of law and false statements in connection with Privacy/FOIA requests.** The following apply:

- If the DVD was not properly received and placed into an accountable system of records, a breach of my PII/PHI has occurred.
- If the DVD was opened by someone other than Ms. Bizzell, the restricted delivery addressee, both a privacy breach and a criminal violation of 18 USC § 1702 (Obstruction of correspondence) has occurred.
- If the DVD in that package was the original DVD that I provided to Ms. Judy Logeman the WRNMMC Healthcare Resolutions Office, then that agency record was improperly removed from the accountable system of records in violation of records management laws, regulations and policies and false statements were made to the office of Navy Judge Advocate General in addressing my second appeal of my FOIA request my FOIA/Privacy Act request "Requester Number WRNMC #13-19 dated January 18, 2014.
- The DVD was clearly in WRNMMC possession at the time of my first appeal of my FOIA/Privacy Act request "Requester Number WRNMC #13-19 dated July 20, 2013,

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

such that false information was given to the office of Navy Judge Advocate General regarding that appeal.

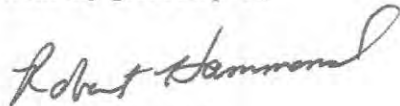
- It is apparent that improper procedures exist in the handling of certified mail and timely receipt by the FOIA/Privacy Office, such that WRNMMC is likely reporting inaccurate information to the United States Congress regarding processing times. Numerous other examples of this exist.

Please provide a reply addressing the following:

- Has a formal inquiry been initiated?
- Has the DVD been located?
- Was the DVD opened by a recipient other than Ms. Bizzell, and if so who?
- Was the DVD the original DVD that I gave to Ms. Logeman?
- What Privacy Act breach reporting and other actions have been taken?

I would also call to your attention to the fact that four privacy breaches involving the Privacy/FOIA Office have occurred in the past few months.

With my great respect,



Robert Hammond

Appeal to FOIA WRNMMC #14-1

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Attachment D

Robert Hammond

(b) (6)

March 24, 2014

Brigadier General Jeffrey B. Clark
Director,
Walter Reed National Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: Request for Inquiry Regarding Two Certified Packages Containing Personally
Identifiable Information (PII)/Protected Health Information (PHI)

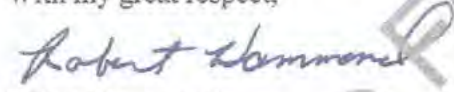
Reference: (a) My letter dated February 25, 2014, subject Request for Inquiry Regarding Two
Certified Packages Containing Personally Identifiable Information (PII)/Protected
Health Information (PHI); follow up

Dear Brigadier General Clark,

I am following up on my letter at reference (a), which I have included for your convenience.
Please acknowledge receipt of my letter and provide status of my request in the letter.

I will greatly appreciate a reply by March 30, 2014. Thank you.

With my great respect,


Robert Hammond

Appeal to FOIA WRNMMC #14-1

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Robert Hammond

(b) (6)

February 25, 2014

Brigadier General Jeffrey B. Clark
Director,
Walter Reed National Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: Request for Inquiry Regarding Two Certified Packages Containing Personally
Identifiable Information (PII)/Protected Health Information (PHI)

Dear Brigadier General Clark,

I am writing to ask you to initiate an inquiry through your staff regarding a certified package with restricted delivery sent to Ms. Judy Bizzell, Freedom of Information (FOIA) Officer with certified mail tracking number 7012 1640 0000 9665 1035 (mailed on November 26, 2013) and a second certified package sent to Ms. Bizzell with certified mail tracking number 7012 1640 0000 9665 4524 (mailed on January 27, 2014). Both packages contained my Protected Health Information (PHI) and Personally Identifiable Information (PII) and there appears to be confusion regarding their delivery to Ms. Bizzell.

The package 7012 1640 0000 9665 1035 contained a DVD with some of my medical records related to my FOIA/Privacy Act request "Requester Number WRNMC #13-19" along with FOIA correspondence. The package 7012 1640 0000 9665 4524 contained FOIA correspondence.

By way of background, my FOIA request "Requester Number WRNMC #13-19" of June 29, 2013 requested a copy of a DVD containing some of my medical records that I had previously provided to the WRNMMC Healthcare Resolutions Office in order to facilitate a search for missing records. In response to that request, Ms. Bizzell forwarded what appears to be the original DVD to me in lieu of the copy that I requested (a copy of the DVD label for the DVD that was mailed to me by Ms. Bizzell is at Attachment A). Since the original would be a WRNMMC agency record, I returned it (along with correspondence) in a certified mailing with delivery restricted to Ms. Bizzell. I did not receive the return receipt confirmation card, so I initiated follow up requests through the United States Postal Service (USPS) Consumer Affairs and Claims Liaison, Merrifield, Virginia. USPS initially reported that WRNMMC stated that the package had not been received. However, subsequent follow ups with the USPS Consumer and Industry Contact Northern Virginia District (following the second incident of a certified mailing to Ms. Bizzell with no returned receipt) indicated that both packages had been received and processed for delivery to Ms. Bizzell. Please see Attachments B and C respectively.

USPS reports that there is still confusion regarding whether Ms. Bizzell received either of the certified packages, and I have not received the package delivery scans or the signed and dated

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

return receipts from Ms. Bizzell indicating that she received the packages in an unopened condition. Please also see the email thread at Attachment D, wherein Ms. Bizzell indicates that she has not received these certified packages from me.

I am hopeful that this situation is the result of procedural/administrative error and that the packages will soon be located. However, I am concerned that one of the following may exist:

- one or both certified packages are missing and a breach of my PII/PHI may have occurred;
- the restricted delivery package was opened by someone other than Ms. Bizzell, which may be a serious matter worthy of your attention;
- Ms. Bizzell did receive one or both of the certified packages and her email at Attachment D is in error.

Please also consider in your inquiry whether there might have been an oversight by the FOIA Office mailing the original Healthcare Resolutions Office DVD to me in lieu of a copy and whether the DVD that I received and then returned is in fact the original Healthcare Resolutions Office DVD and not a copy. If this is the case, I believe that a simple notification to Department of Navy Judge Advocate General in connection with my appeal of the WRNMMC response to my FOIA request #13-19 would close that matter.

For information, there was an earlier, unrelated PII/PHI breach wherein the WRNMMC FOIA Office released medical records to me that are not mine. I returned those records by certified mail and was assured that WRNMMC staff took all appropriate action.

I will greatly appreciate your assistance in this matter. Thank you.

With my great respect,



Robert Hammond

Attachments: A - Image of DVD Sent by WRNMMC FOIA Officer

B - Email From (b) (6) (b) (6)
Sent: 2/21/2014 4:11:47 P.M. Eastern Standard Time, Subj: Certified Mail
70121640000096654524 and 70121640000096651035

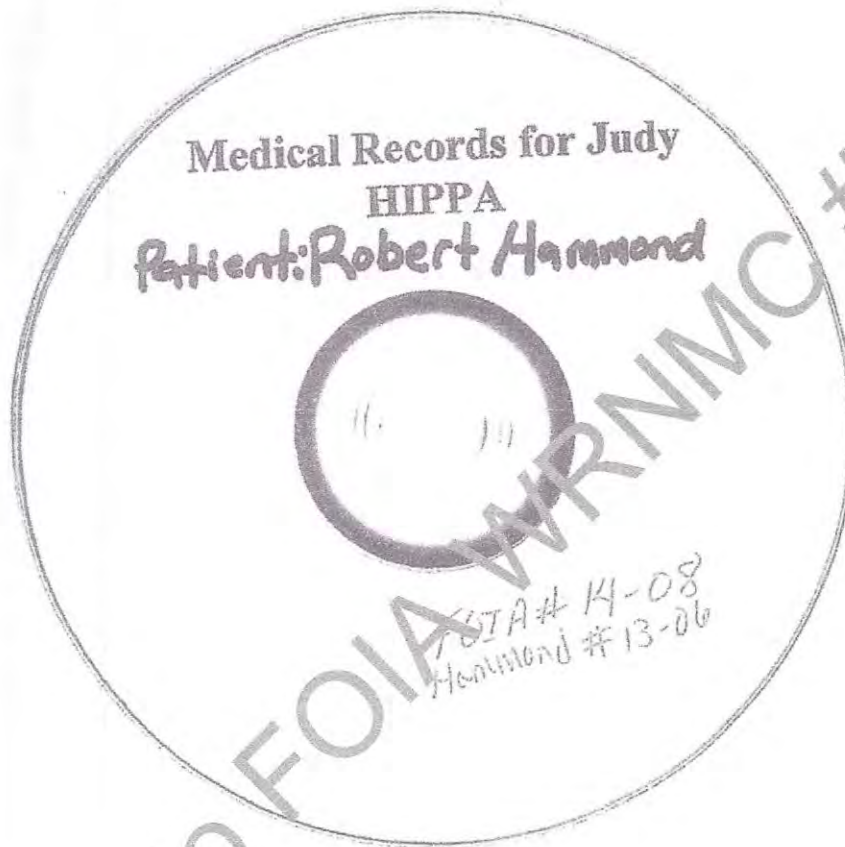
C - Email From (b) (6) (b) (6)
Sent: 2/21/2014 4:08:36 P.M. Eastern Standard Time, Subj: Certified Not
Delivered 7012 1640 0000 9665 1035

D - Email From: Judy.J.Bizzell.civ@health.mil, To (b) (6)
Sent: 2/18/2014 6:13:08 P.M. Eastern Standard Time, Subj: RE: WRNMMC
letter of November 19, 2013;subj FOIA #14-08; follow up of Feb 17, 2014

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Attachment A

Image of DVD sent by WRNMMC FOIA Officer



Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Attachment B

From: (b) (6)

(b) (6)

Sent: 2/21/2014 4:08:36 P.M. Eastern Standard Time
Subj: Certified Not Delivered 7012 1640 0000 9665 1035

Good afternoon Mr. Hammond,

On Dec. 26 you came into the office to have me track this certified letter. As of Nov. 27, 2013 the only information in the tracking system was that it left Merrifield. The package never reached its intended destination. I called various numbers in an effort to locate the package. The 1st number was to the Post office in Bethesda MD. 301-670-6049. I called a few other numbers that were associated with Walter Reed Medical Center. The numbers were 301-295-4617, 301-295-4000, 301-295-0162. Unfortunately none of these numbers led to me finding your package.

Please accept my sincere apology for the inconvenience you have experienced as a result of the post office not meeting its standard.

Thank you,

JOHNEISE R. THOMAS
Consumer Affairs and Claims
8409 Lee Highway
Merrifield, VA. 22081

(b) (6)

Appeal to FOIA WRNMG

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Attachment C

(b) (6)

Sent: 2/21/2014 4:11:47 P.M. Eastern Standard Time
 Subj: Certified Mail 70121640000096654524 and 70121640000096651035

Mr. Hammond,

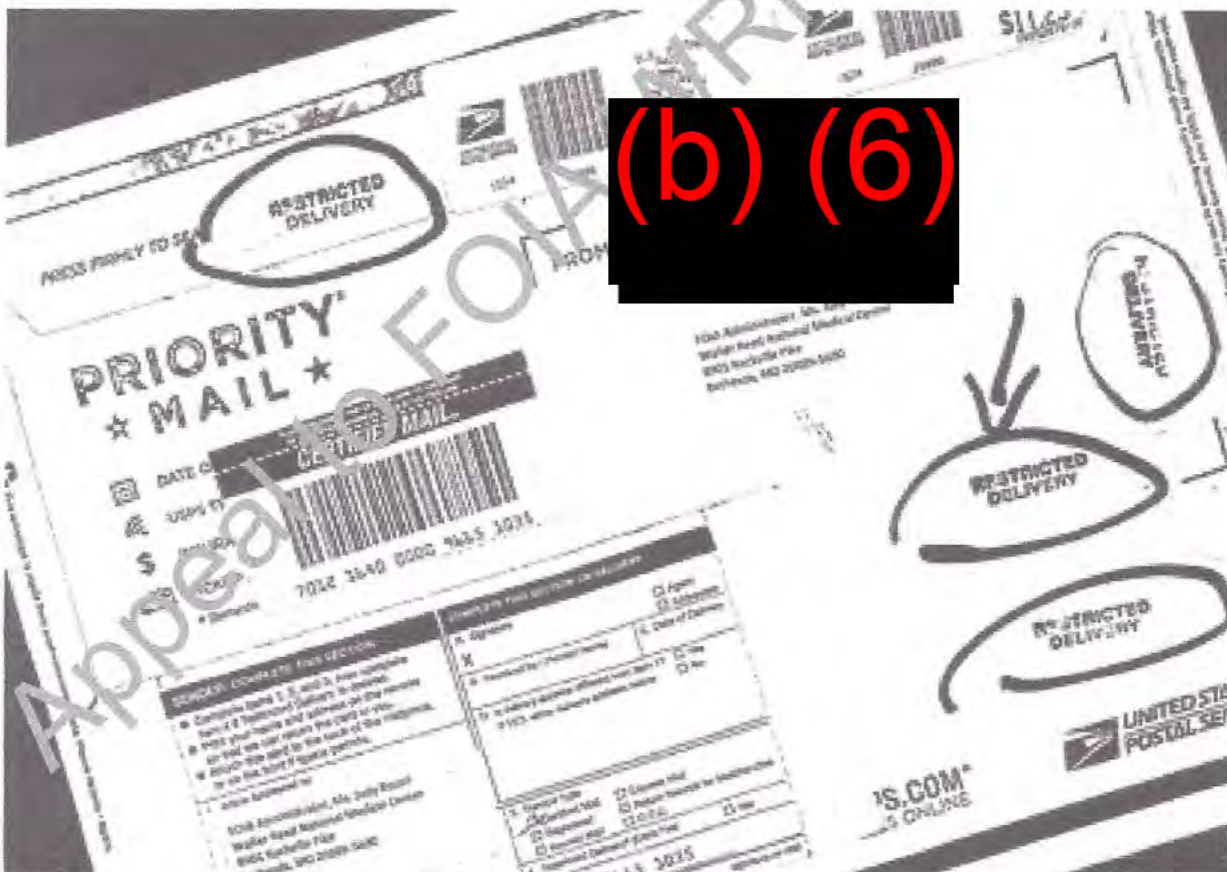
On February 21, 2014 I spoke with Ms. Gulley who is the Manager of the Bethesda Hospital Mail Services about your two certified mailings. She investigated and determined that the Certify with label # 70121640000096654524 was picked up on February 12, 2012 by (b) (6). The Certify with label # 70121640000096651035 was picked up on December 17, 2013 by (b) (6).

(b) (6) is the mail orderly for the FOIA Officer Judy Bizzell.

Ms. Gulley's contact telephone number is (b) (6).

Mail for Bethesda is sorted and dispatched from the Anacostia Plant Facility.

Below is an image of your package.



Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Attachment C

(b) (6)

Consumer and Industry Contact

Northern Virginia District

8409 Lee Highway, Room 102

Merrifield, VA 22081

Telephone (b) (6)

Fax (703) 204-3075

(b) (6)

Have a WONDERFUL Day!

Appeal to FOIA WRNMC #14-1

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Attachment D

From: Judy.J.Bizzell.civ@health.mil
To: (b) (6)
CC: (b) (6); Judy.J.Bizzell.civ@health.mil
Sent: 2/18/2014 6:13:08 P.M. Eastern Standard Time
Subj: RE: WRNMMC letter of November 19, 2013;subj FOIA #14-08; follow up of Feb 17, 2014

Good day (b) (6) – Bottom Line Up Front (BLUF) – I am confused as to what you are asking of me at this point.

As I responded in my below email (11/14/2013) I have now mailed you the requested information twice (once in paper form and again via DVD - per your request). The DVD mailed to you was a "Copy" as you requested, so why would you "return it"? You say you sent it certified mail but did not get a return receipt. If you in fact did return it; where did you send it? Have you tracked it?

Further, I have no other letters from you (b) (6) and case #13-19 is closed in this office.

Best Regards,

Judy J. Bizzell
By Direction

Freedom of Information Act Officer
Walter Reed National Military Medical Center
8900 Wisconsin Avenue
Bethesda, MD 20889

(b) (6)

From: (b) (6)
Sent: Monday, February 17, 2014 1:52 PM
To: Bizzell, Judy J CIV US WRNMMC
Cc: Davidge, Joe E CIV US WRNMMC
Subject: WRNMMC letter of November 19, 2013;subj FOIA #14-08; follow up of Feb 17, 2014

Robert Hammond

(b) (6)

February 17, 2014

Ms. Judy Bizzell
Freedom of Information Act (FOIA) Officer
Walter Reed National Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: WRNMMC letter of November 19, 2013; subject Freedom of Information Act Request - #14-08
(Ref: DVD); follow up of February 17, 2014

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Attachment D

- Reference: (a) My Requester Control Number FOIA WRNMC #13-19 of June 29, 2013; subject: Privacy Act Request/FOIA Request – Medical Records; Copy of DVD Containing PDF files of Records Received as of May 14, 2012
- (b) My Requester Control Number FOIA WRNMC #13-06 of June 29, 2013; subject: Privacy Act Request FOIA Request - Records from June 20, 2012 to July 5, 2012; Hatch
- (c) My letter, subject: WRNMMC letter of November 19, 2013; subject Freedom of Information Act Request - #14-08 (Ref: DVD) dated of January 17, 2014
- (d) My letter subject: WRNMMC letter of November 19, 2013; subject Freedom of Information Act Request - #14-08 (Ref: DVD); follow up of January 25, 2014
- (e) Judy.J.Bizzell.civ@health.mil email, Sent: 11/14/2013 10:43:34 A.M. Eastern Standard Time, Subj: RE: URGENT Potential Breach of Protected Privacy Act Information Breach of Protected Privacy Act Information

Dear Ms. Bizzell,

I am following again on up on my letter of January 17, 2014 (reference (c)) and my letter of January 25, 2014 (reference (d)) in which I indicated that I returned the original DVD that you sent to me. I asked that you, "Please advise me if you have received it and also if you retained a copy of the DVD in your file before mailing the original." I also asked that you, "Please provide me your correct tracking control numbers for both of my requests at references (a) and (b)."

I would appreciate the courtesy of a reply to my questions above. I have not received the return receipts to my certified letters. In particular, I need to know if you received the DVD containing my sensitive medical information that I mailed back to you.

Reference (e), which is at Attachment A, also applies.

Please retain this letter along with my letters of January 17, 2014 and January 25, 2014 (references (c) and (d)) in your case file for my request WRNMC #13-19, together with my original request and all other relevant documentation.

My request WRNMC #13-19 remains open.

Your cooperation in this matter will be greatly appreciated. Thank you.

With my respect,

Robert Hammond

Copy to: J. E. Davidge, Privacy Compliance Administrator
Walter Reed National Military Medical Center
Building 1, 2nd Floor, Room 2430
8901 Rockville Pike
Bethesda, MD 20889-5600

Attachment A

Judy.J.Bizzell.civ@health.mil email, Sent: 11/14/2013 10:43:34 A.M.
Eastern Standard Time, Subj: RE: URGENT Potential Breach of Protected
Privacy Act Information Breach of Protected

Privacy Act Information

Appeal to FOIA WRNMC #14-1

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Attachment D

From: Judy.J.Bizzell.civ@health.mil

To: (b) (6)

(b) (6)

Judy.J.Bizzell.civ@health.mil

Sent: 11/14/2013 10:43:34 A.M. Eastern Standard Time

Subj: RE: URGENT Potential Breach of Protected Privacy Act Information

Good day Mr. Hammond – Please be advised that there is no missing DVD. As stated in my e-mail on yesterday; the contents of the DVD were copied and mailed to you. Therefore, when you were informed that “all information provided to this office was released to you “in-full” that was a true and accurate statement. The DVD has now been copied onto another DVD and the copied DVD will be mailed to you. Please look for it, via certified mail, within the next few days.

Regards,

Judy J. Bizzell

By Direction

Freedom of Information Act Officer

Walter Reed National Military Medical Center

8900 Wisconsin Avenue

Bethesda, MD 20889

(b) (6)

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Attachment D

From: (b) (6)
Sent: Thursday, November 14, 2013 6:02 AM
To: Bizzell, Judy J CIV US WRNMMC; Davidge, Joe E CIV US WRNMMC; McCall, Thurman S CTR US WRNMMC
Cc: Franz, Charles P US CPT USA; Moidel, Barbara I CIV US WRNMMC; Floyd, Cornell J CIV US WRNMMC; Logeman, Judy A CIV US WRNMMC; (b) (6); (b) (6)
Subject: Re: URGENT Potential Breach of Protected Privacy Act Information

Dear Ms. Bizzell, and Mr. Davidge,

Thank you for your replies. I appreciate the efforts of everyone on the WRNMMC staff.

The reason for my initial concern was that the DON JAG response to my appeal regarding my Privacy Act/FOIA request of June 29, 2013 indicated that the Privacy, FOIA and Medical Records Offices had done a thorough search for the DVD to no avail. The DON JAG letter was dated 13 Sep 13 and I had not heard anything from anyone at WRNMMC since I submitted the request in June. Did you notify Mr. Lattin and Major Contreras when you learned that you had located the DVD?

I am now concerned that the copy you mailed previously has not reached me. Please provide me a copy of your forwarding letter, certified mail tracking number and date mailed to assist in locating the missing DVD.

As I said in my prior emails following up on the status of previously submitted Privacy Act/FOIA and medical record correction requests, I am doing my best to work with you.

I need your help.

Please provide timely and complete replies to minimize the need for follow up emails and additional Privacy Act/FOIA requests. Your four email of yesterday were the first since Ms. Bizzell's email of May 23, 2013 indicating that "all information provided to this office was released to you "in-full". The Privacy Act/FOIA requests that followed were for specific, detailed record sets known to exist – more correspondence than I hoped would be needed. Some records that you were previously unable to locate have now been provided and I look forward to working cooperatively with you to locate and obtain the remaining records. I am also agreeable to potentially consolidating medical records corrections. I simply want my medical records to be complete and accurate.

Ms. Bizzell, in reply to your second email yesterday asking me not to forward emails to Mr. Davidge via you, you are aware that I was able to locate email addresses for Mr. Davidge and Mr. McCall my own after sending an email via you on 16 October and another on 18 October without a reply. You have been together on every email since, including my 12 November email following up on my 18 October email. These involved both Privacy Act and FOIA requests. I plan continue sending emails to you both when appropriate. As I said, please feel free to contact me via email.

I would like to work together with you going forward.

Thank you.

With my respect,

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Attachment D

Robert Hammond
Commander, Supply Corps
United States Navy (Retired)

In a message dated 11/13/2013 11:04:15 A.M. Eastern Standard Time, Judy.J.Bizzell.civ@health.mil writes:

Dear Mr. Hammond

This note responds to your below request. The DVD in question is not lost; the DVD is in your FOIA file.

The following information is given to ensure your concerns are dispelled:

- DVD is labeled "Medical Records for Judy" on the first line and the second line simply reads "HIPPA".

The DVD was delivered to the Freedom of Information Act (FOIA) office by Mr. McCall and the contents were copied and mailed to you. I have requested the DVD to be copied and that DVD will be mailed to you via certified mail by week end.

Regards,

Judy J. Bizzell
By Direction

Freedom of Information Act Officer
Walter Reed National Military Medical Center
8900 Wisconsin Avenue
Bethesda, MD 20889
(301) 400-2315

From: (b) (6)

Sent: Tuesday, November 12, 2013 5:47 AM

To: Davidge, Joe E CIV US WRNMMC; Bizzell, Judy J CIV US WRNMMC; McCall, Thurman S CTR US WRNMMC

Subject: URGENT: Potential Breach of Protected Privacy Act Information

Robert Hammond

(b) (6)

November 12, 2013

Freedom of Information Act (FOIA)
Administrator, Ms. Judy Bizzell/Privacy Officer,
Walter Reed National Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Attachment B to NARA Complaint

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

HP Officejet Pro 8600 N911g Series

Fax Log for
Bob Hammod

(b) (6)

Apr 17 2014 7:19PM

Last Transaction

Date	Time	Type	Station ID	Duration	Pages	Result
Digital Fax						
Apr 17	7:13PM	Fax Sent	13014003348	6:04 N/A	18	OK

First Page of Sent Fax

Robert Hammod

(b) (6)

April 17, 2014

Brigadier General Jeffrey B. Clark
Director,
Walter Reed National Medical Center (WRNMMC)
3901 Rockville Pike
Bethesda, MD 20889-5100

Subject: Request for Inquiry Regarding Two Certified Packages Containing Personally Identifiable Information (PII)/Protected Health Information (PHI)

Reference: (a) my letter dated February 25, 2014, subject Request for Inquiry Regarding Two Certified Packages Containing Personally Identifiable Information (PII)/Protected Health Information (PHI); follow up

Dear Brigadier General Clark:

I am following up on my letter at reference (a), which I have included for your convenience. Please acknowledge receipt of my letter and provide the status of your inquiry.

I asked that you initiate an inquiry into the handling of two certified mailings containing my Protected Health Information (PHI) and Personally Identifiable Information (PII): certified mail tracking number 7012 1640 0000 9665 1035 (mailed on November 26, 2013) and certified mail tracking number 7012 1640 0000 9665 4524 (mailed on January 27, 2014).

To be clear, the restricted delivery package with tracking number 012 1640 0000 9665 1035 containing a DVD with hundreds of pages of my medical records has as not been accounted for. A privacy breach has clearly occurred along with potential criminal violations of law and false statements in connection with Privacy/FOIA requests. The following apply:

- If the DVD was not properly received and placed into an accountable system of records, a breach of my PII/PHI has occurred.
- If the DVD was opened by someone other than Ms. Bizzell, the restricted delivery addressee, both a privacy breach and a criminal violation of 18 USC § 1702 (Obstruction of correspondence) has occurred.
- If the DVD in that package was the original DVD that I provided to Ms. Judy Logeman the WRNMMC Healthcare Resolutions Office, then that agency record was improperly removed from the accountable system of records in violation of records management laws, regulations and policies and false statements were made to the office of Navy Judge Advocate General in addressing my second appeal of my FOIA request my FOIA/Privacy Act request "Requester Number WRNMC #13-19 dated January 18, 2014.
- The DVD was clearly in WRNMMC possession at the time of my first appeal of my FOIA/Privacy Act request "Requester Number WRNMC #13-19 dated July 20, 2013.

Attachment B to NARA Complaint

Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request

From: (b) (6)
To: Judy.J.Bizzell.civ@health.mil
CC: (b) (6)
Sent: 2/25/2014 8:26:42 A.M. Eastern Standard Time
Subj: Re: WRNMMC letter of November 19, 2013;subj FOIA #14-08; follow up of Feb 17,...

Dear Ms. Bizzell,

In response to your email, I did trace my certified packages through USPS.

I sent you a certified package with restricted delivery via certified mail tracking number 7012 1640 0000 9665 1035 on November 26, 2013 and a second certified package via certified mail tracking number 7012 1640 0000 9665 4524 on January 27, 2014. Both packages contained my Protected Health Information (PHI) and Personally Identifiable Information (PII). The package 7012 1640 0000 9665 1035 contained the DVD with some of my medical records related to my FOIA/Privacy Act request "Requester Number WRNMC #13-19" along with FOIA correspondence. The package 7012 1640 0000 9665 4524 contained FOIA correspondence. USPS inquiries indicate that both packages were released to (b) (6) for delivery to you. The restricted delivery package 7012 1640 0000 9665 1035 should not have been opened by anyone other than you.

As I indicated in my FOIA follow up of January 26, 2014 (attached for your FOIA case file), the DVD that you mailed to me appears to be the original that I provided to Ms. Logeman of the Healthcare Resolutions Office vice a copy (perhaps through oversight in mailing). Since the original DVD that I provided to Ms. Logeman is an agency record, I returned it to you.

I look forward to receiving tracking numbers for my outstanding FOIA requests and to receiving the requested records. Please let me know if there is any assistance that I may provide you on any specific FOIA request.

With my respect,

Robert Hammond

In a message dated 2/18/2014 6:13:08 P.M. Eastern Standard Time, Judy.J.Bizzell.civ@health.mil writes:

Good day Mr. Hammond – Bottom Line Up Front (BLUF) – I am confused as to what you are asking of me at this point.

**Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request**

As I responded in my below email (11/14/2013) I have now mailed you the requested information twice (once in paper form and again via DVD - per your request). The DVD mailed to you was a "Copy", as you requested, so why would you "return it"? You say you sent it certified mail but did not get a return receipt. If you in fact did return it; where did you send it? Have you tracked it?

Further, I have no other letters from you Mr. Hammond, and case #13-19 is closed in this office.

Best Regards,

Judy J. Bizzell

By Direction

Freedom of Information Act Officer

Walter Reed National Military Medical Center

8900 Wisconsin Avenue

Bethesda, MD 20889

(b) (6)

From: **(b) (6)**

Sent: Monday, February 17, 2014 1:52 PM

**Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request**

To: Bizzell, Judy J CIV US WRNMMC

Cc: Davidge, Joe E CIV US WRNMMC

Subject: WRNMMC letter of November 19, 2013; subj FOIA #14-08; follow up of Feb 17, 2014

Robert Hammond

(b) (6)

February 17, 2014

Ms. Judy Bizzell
Freedom of Information Act (FOIA) Officer
Walter Reed National Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: WRNMMC letter of November 19, 2013; subject Freedom of Information Act Request - #14-08
(Ref: DVD); follow up of February 17, 2014

Reference: (a) My Requester Control Number FOIA WRNMC #13-19 of June 29, 2013; subject: Privacy Act Request/FOIA Request – Medical Records; Copy of DVD Containing PDF files of Records Received as of May 14, 2012

(b) My Requester Control Number FOIA WRNMC #13-06 of June 29, 2013; subject: Privacy Act Request FOIA Request - Records from June 20, 2012 to July 5, 2012; Hatch

(c) My letter, subject: WRNMMC letter of November 19, 2013; subject Freedom of Information Act Request - #14-08 (Ref: DVD) dated of January 17, 2014

(d) My letter subject: WRNMMC letter of November 19, 2013; subject Freedom of Information Act Request - #14-08 (Ref: DVD); follow up of January 25, 2014

(e) Judy.J.Bizzell.civ@health.mil email, Sent: 11/14/2013 10:43:34 A.M. Eastern Standard Time, Subj: RE: URGENT Potential Breach of Protected Privacy Act Information Breach of Protected Privacy Act Information

Dear Ms. Bizzell,

**Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request**

I am following again on up on my letter of January 17, 2014 (reference (c)) and my letter of January 25, 2014 (reference (d)) in which I indicated that I returned the original DVD that you sent to me. I asked that you, "Please advise me if you have received it and also if you retained a copy of the DVD in your file before mailing the original." I also asked that you, "Please provide me your correct tracking control numbers for both of my requests at references (a) and (b)."

I would appreciate the courtesy of a reply to my questions above. I have not received the return receipts to my certified letters. In particular, I need to know if you received the DVD containing my sensitive medical information that I mailed back to you.

Reference (e), which is at Attachment A. also applies.

Please retain this letter along with my letters of January 17, 2014 and January 25, 2014 (references (c) and (d)) in your case file for my request WRNMC #13-19, together with my original request and all other relevant documentation.

My request WRNMC #13-19 remains open.

Your cooperation in this matter will be greatly appreciated. Thank you.

With my respect,

Robert Hammond

Copy to: J. E. Davidge, Privacy Compliance Administrator
Walter Reed National Military Medical Center
Building 1, 2nd Floor, Room 2430
8901 Rockville Pike
Bethesda, MD 20889-5600

**Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request**

Attachment A

Judy.J.Bizzell.civ@health.mil email, Sent: 11/14/2013 10:43:34 A.M.
Eastern Standard Time, Subj: RE: URGENT Potential Breach of Protected
Privacy Act Information Breach of Protected

Privacy Act Information

**Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request**

**Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request**

From: Judy.J.Bizzell.civ@health.mil

To: (b) (6)

(b) (6)

(b) (6)

(b) (6)

Judy.J.Bizzell.civ@health.mil

Sent: 11/14/2013 10:43:34 A.M. Eastern Standard Time

Subj: RE: URGENT Potential Breach of Protected Privacy Act Information

Good day Mr. Hammond – Please be advised that there is no missing DVD. As stated in my e-mail on yesterday; the contents of the DVD were copied and mailed to you. Therefore, when you were informed that “all information provided to this office was released to you “in-full” that was a true and accurate statement. The DVD has now been copied onto another DVD and the copied DVD will be mailed to you. Please look for it, via certified mail, within the next few days.

Regards,

Judy J. Bizzell

By Direction

Freedom of Information Act Officer

Walter Reed National Military Medical Center

8900 Wisconsin Avenue

Bethesda, MD 20889

(b) (6)

**Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request**

From: (b) (6)
Sent: Thursday, November 14, 2013 6:02 AM
To: Bizzell, Judy J CIV US WRNMMC; Davidge, Joe E CIV US WRNMMC; McCall, Thurman S CTR US WRNMMC
Cc: Franz, Charles P US CPT USA; Moidel, Barbara I CIV US WRNMMC; Floyd, Cornell J CIV US WRNMMC; Logeman, Judy A CIV US WRNMMC (b) (6)
Subject: Re: URGENT Potential Breach of Protected Privacy Act Information

Dear Ms. Bizzell, and Mr. Davidge,

Thank you for your replies. I appreciate the efforts of everyone on the WRNMMC staff.

The reason for my initial concern was that the DON JAG response to my appeal regarding my Privacy Act/FOIA request of June 29, 2013 indicated that the Privacy, FOIA and Medical Records Offices had done a thorough search for the DVD to no avail. The DON JAG letter was dated 18 Sep 13 and I had not heard anything from anyone at WRNMMC since I submitted the request in June. Did you notify Mr. Lattin and Major Contreras when you learned that you had located the DVD?

I am now concerned that the copy you mailed previously has not reached me. Please provide me a copy of your forwarding letter, certified mail tracking number and date mailed to assist in locating the missing DVD.

As I said in my prior emails following up on the status of previously submitted Privacy Act/FOIA and medical record correction requests, I am doing my best to work with you.

I need your help.

Please provide timely and complete replies to minimize the need for follow up emails and additional Privacy Act/FOIA requests. Your four email of yesterday were the first since Ms. Bizzell's email of May

**Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request**

23, 2013 indicating that "all information provided to this office was released to you "in-full"." The Privacy Act/ FIOA requests that followed were for specific, detailed record sets known to exist – more correspondence than I hoped would be needed. Some records that you were previously unable to locate have now been provided and I look forward to working cooperatively with you to locate and obtain the remaining records. I am also agreeable to potentially consolidating medical records corrections. I simply want my medical records to be complete and accurate.

Ms. Bizzell, in reply to your second email yesterday asking me not to forward emails to Mr. Davidge via you, you are aware that I was able to locate email addresses for Mr. Davidge and Mr. McCall my own after sending an email via you on 16 October and another on 18 October without a reply. You have been together on every email since, including my 12 November email following up on my 18 October email. These involved both Privacy Act an FOIA requests. I plan continue sending emails to you both when appropriate. As I said, please feel free to contact me via email.

I would like to work together with you going forward.

Thank you.

With my respect,

Robert Hammond

Commander, Supply Corps
Unites States Navy (Retired)

In a message dated 11/13/2013 11:04:15 A.M. Eastern Standard Time, Judy.J.Bizzell.civ@health.mil writes:

Dear Mr. Hammond

Attachment B to NARA Complaint

Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request

This note responds to your below request. The DVD in question is not lost; the DVD is in your FOIA file .

The following information is given to ensure your concerns are dispelled:

- DVD is labeled "Medical Records for Judy" on the first line and the second line simply reads "HIPPA".

The DVD was delivered to the Freedom of Information Act (FOIA) office by Mr. McCall and the contents were copied and mailed to you. I have requested the DVD to be copied and that DVD will be mailed to you via certified mail by weeks end.

Regards,

Judy J. Bizzell

By Direction

Freedom of Information Act Officer

Walter Reed National Military Medical Center

8900 Wisconsin Avenue

Bethesda, MD 20889

(b) (6)

Attachment B to NARA Complaint

**Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request**

From: (b) (6)
Sent: Tuesday, November 12, 2013 5:47 AM
To: Davidge, Joe E CIV US WRNMMC; Bizzell, Judy J CIV US WRNMMC; McCall, Thurman S CTR US WRNMMC
Subject: URGENT Potential Breach of Protected Privacy Act Information

Robert Hammond

(b) (6)

November 12, 2013

Freedom of Information Act (FOIA)
Administrator, Ms. Judy Bizzell/Privacy Officer,

Walter Reed National Medical Center (WRNMMC)

8901 Rockville Pike

Bethesda, MD 20889-5600

J. E. Davidge, HIPPA/Privacy Compliance Officer

Walter Reed National Military Medical Center (WRNMMC)

Building 1, 2nd Floor, Room 2435

8901 Rockville Pike

Bethesda, MD 20889-5600

Thurman McCall

Medical Records Administrator

Walter Reed National Medical Center

**Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request**

8901 Rockville Pike

Bethesda, MD 20889-5600

**Subject: Potential Breach of Protected Privacy Act Information – DVD Containing PDF files of
Records Received from WRNMMC as of May 14, 2012**

Dear Ms. Bizzell, Mr. Davidge and Mr. McCall,

Please refer to my letter of June 29, 2013, subject: Privacy Act Request/FOIA Request – Medical Records;
Copy of DVD Containing PDF files of Records Received as of May 14, 2012.

I am very concerned that after nearly five months, you have not been able to locate and account for this DVD, which contains my sensitive medical information (including consultations by psychiatry) along with my social security number and other personally identifiable information. This is very disturbing..

The DVD that I gave Ms. Logeman was labeled “HIPPA” and it is an agency record. I don’t understand why the DVD was not properly safeguarded as I asked and now cannot be accounted for. The thought of a possible a possible breach of my Privacy Act/HIPPA information is very troubling.

Please expedite your search for the DVD and also initiate the essential reviews / incident reporting as possible Privacy Act and HIPPA breaches. If you are unable to locate the DVD immediately, please also review the possible unauthorized destruction of this record.

I am asking that you do these things as soon as possible. If you are able to locate the DVD please send me a copy soonest by certified mail under appropriate cover letter and send me an email with the tracking information.

Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request

Please acknowledge right away that you received this email and have initiated the incident reviews.
Please let me know the status of your incident reviews along with anything else that you may be doing
by Friday, November 15, 2013.

Thank you in advance your help.

With my respect,

Robert Hammond

Commander, Supply Corps
Unites States Navy (Retired)

HP Officejet Pro 8600 N911g Series

Fax Log for
Bob Hammod

(b) (6)

Aug 16 2014 8:06PM

Last Transaction

Date	Time	Type	Station ID	Duration	Pages	Result
Digital Fax						
Aug 16	7:51PM	Fax Sent	13014003348	15:10 N/A	43	OK

First Page of Sent Fax

Robert Hammod
(b) (6)

August 16, 2014

Office of General Counsel
National Capital Region Medical Directorate
Defense Health Agency
8901 Wisconsin Avenue (Building 27)
Bethesda, MD 20889
Phone: (703) 681-6012
E-mail: OGCFOIAAppeals@rma.osd.mil

Subject: Appeal of my FOIA Request - certified mail tracking numbers 7012
1640 0000 9665 1035 and 7012 1640 0000 9665 4524

Requester Control Number: POLA WRNMC #144

References: (a) The Freedom of Information Act
(b) The Privacy Act
(c) CFR 164.526
(d) DoD 5700.7-R, September 1998, DoD Freedom of Information Act (FOIA)
Program
(e) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation
(f) Joint publication of U.S. Department of Justice, Executive Office of the
President and U.S. General Services Administration of July 2011: "Your Right to
Federal Records" (see <http://publications.usa.gov/USAPubs.php?PubID=6080>)
(g) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program

Dear Sir:

This appeal is submitted under the references above for my FOIA request at Attachment A. My FOIA request was submitted by email to Ms. Judy Bizzell (judy.j.bizzell.civ@health.mil) of the Walter Reed National Military Medical Center (WRNMMC) FOIA Office on April 28, 2014 (their fax machine was not working). The WRNMMC undated, unserialized, unsigned FOIA response is at Attachment B. This reply was received by email from Ms. Bizzell at 7/25/2014 5:11:48 P.M. Eastern Daylight Time. I have requested a dated, serialized and signed copy of Ms. Bizzell's letter, which I have not received. This appeal is only applicable to my FOA request at Attachment A; WRNMMC referenced multiple FOIA requests in their reply which may be the subject of separate subsequent appeals.

Background: This request relates to *potential* and loss or compromise of both Personal Health

HP OfficeJet Pro 8600 N911g Series

Fax Log for
Bob Hammod

(b) (6)

Aug 16 2014 7:02PM

Last Transaction

Date	Time	Type	Station ID	Duration	Pages	Result
Digital Fax						
Aug 16	6:47PM	Fax Sent	13012955522	14:44 N/A	42	OK

First Page of Sent Fax

Robert Hammod

(b) (6)

August 16, 2014

Office of General Counsel
National Capital Region Medical Directorate
Defense Health Agency
8901 Wisconsin Avenue (Building 27)
Bethesda, MD 20889
Phone: (703) 681-6012
E-mail: OGCFOIAAppeals@hna.osd.mil

Subject: Appeal of my FOIA Request - certified mail tracking numbers 7012
1640 0000 9665 1035 and 7012 1640 0000 9665 4524

Requester Control Number: FOIA WRNMC #14-I

References: (a) The Freedom of Information Act
(b) The Privacy Act
(c) CFR 164.526
(d) DoD 5700.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
(e) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation
(f) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011: "Your Right to Federal Records" (see <http://publications.usa.gov/USAPubs.php?PubID=6080>)
(g) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program

Dear Sir:

This appeal is submitted under the references above for my FOIA request at Attachment A. My FOIA request was submitted by email to Ms. Judy Bizzell (judy.j.bizzell.civ@health.mil) of the Walter Reed National Military Medical Center (WRNMMC) FOIA Office on April 28, 2014 (their fax machine was not working). The WRNMMC undated, unserialized, unsigned FOIA response is at Attachment B. This reply was received by email from Ms. Bizzell at 7/25/2014 5:11:48 P.M. Eastern Daylight Time. I have requested a dated, serialized and signed copy of Ms. Bizzell's letter, which I have not received. This appeal is only applicable to my FOIA request at Attachment A, WRNMMC referenced multiple FOIA requests in their reply which may be the subject of separate subsequent appeals.

Background. This request relates to *potential* loss or compromise of both Personal Health

**MEKI GULLEY ADMITTED DESTRUCTION, SHREDDING OF MAIL RECORDS
DURING LITIGATION
(SUPPORTING CHRONOLOGY TO DKT. NO. 30 & 33-15)**

February 12, 2014	<p>Walter Reed Mail Services Supervisor, Gulley confirmed to USPS (b) (6) that (b) (6) (mail orderly for FOIA Officer Judy Bizzell) picked up certified mail package 70121640000096654524 February 12, 2014 and that package (b) (6) picked up certified package 70121640000096651035 on December 17, 2013. Both packages were addressed to Judy Bizzell, and package 1035 was sent restricted delivery.</p> <p>See Dkt. No. 1, Complaint Ex. 18, at 11, 21 (also includes USPS image of 1035).</p> <p>USPS' (b) (6) also provided signed contemporaneous notes of her conversation with Meki Gulley. See Ex. B-4_ USPS_ (b) (6) Signed Contemporaneous Notes.</p>
April 26, 2014	FOIA Request sent to Walter Reed. Dkt. No. 1, Ex.18, at 6.
August 16, 2014	FOIA Appeal filed with DHA. Dkt. No. 1, Ex. 18.
February 15, 2015 April 5, 2015 May 10, 2015	<p>Notices sent to Walter Reed FOIA Officer and others to <u>preserve records</u> for judicial review.</p> <p>See Dkt No. 24 -6, Ex. B-5, at 1; Dkt. No. 12-5, Amended Complaint Ex. A-5, at 2; Dkt No. 12 – 7, Amended Complaint, Ex. A-6.</p>
March 2, 2016	Civil Case 16-00421-KBJ filed. See Dkt. No. 1-1.
March 12, 2016	<p>This is two years and one month after package 4524 was picked up by (b) (6) on February 12, 2014. Gulley states that hard copy records were destroyed/shredded on or after this date, even though litigation had already commenced. Also, here is no evidence that Walter Reed had at that time a record schedule for destroying certified records after two years and one month, as Gulley claims.</p> <p>In a May 22, 2017 email Walter Reed Mail Services Manager, Gulley, confirms receipt of package 4524; states hard copy records are <u>shredded after 2 years and one month</u>. Gulley previously advised (b) (6), USPS, of same by email of 8/10/2016 at 8:33:58.</p> <p>See Dkt. No. 32-9; Dkt. No. 24-6, Ex. B-5;</p>

	WALTER REED DESTROYED HARD COPY RECORDS DESTROYED AFTER START OF LITIGATION ON MARCH 2, 2016
July 28, 2017	<p>Plaintiff's List of Outstanding Records seeks:</p> <ul style="list-style-type: none"> Records relied upon by Ms. Gulley on May 22, 2017, in acknowledging receipt of certified package 7012 1640 0000 9665 4524. <i>See</i> ECF 25-2 ¶32. [Bizzell Third Decl.]. <p><i>See</i> Dkt. No 30 at 6, last bullet.</p>
July 28, 2017	<p>PLAINTIFF'S List of Outstanding Records lists "<i>Records relied upon by Ms. Gulley on May 22, 2017, in acknowledging receipt of certified package 7012 1640 0000 9665 4524</i> (Dkt. No. 33-16 ¶ 394).</p> <p>Notwithstanding the destruction of hard copy records, Walter Reed maintains extensive electronic records.</p> <p><i>See</i> Dkt. No. 22-2, Hammond Decl. ¶¶ 64, 65; Dkt. No. 24-8, Ex. B-7; Dkt. No. 22-3, ¶¶ 197 198. <i>See also</i> Dkt. No. 33-13 ¶¶ 359, 396.</p>
September 9, 2017	<p>Defendants RMSJ filed.</p> <p>Paragraph H of Plaintiff's List of Outstanding Records. Dkt. No. 30.</p> <p>Bizzell Fourth Decl. ¶ 18 does not describe any searches whatsoever for any of the specifically identified records in Paragraph H of Plaintiff's List of Outstanding Records. Dkt. No. 30. This includes, among others "<i>Records relied upon by Ms. Gulley on May 22, 2017, in acknowledging receipt of certified package 7012 1640 0000 9665 4524. See ECF 25-2 ¶32.</i>" <i>See also</i> Dkt. No. 27-1, at 77.</p> <p>Bizzell Fourth Decl. ¶ 18 states:</p> <p>Paragraph H of Plaintiff's List requested: "Records related to Certified Mail with Tracking Numbers 7012 1640 0000 9665 1035 and 7012 1640 0000 9665 4524 (Amended Complaint 11 31 - 52 and 135 - 155)." Bullets one through eleven suggest various forms of information, documents, and records related to the requested documents, or tangential documents about inquiries or investigations. The request was asked and answered. <i>See</i> Third Bizzell Declaration ¶¶ 31-32."</p> <p>Bizzell's statement above is false. These records have been destroyed or records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction.</p>

	<p>Third Bizzell Declaration (Dkt. No 25-2) is dated <u>May 23, 2017</u>, one day after <u>Gulley's May 22, 2017 email</u>, and it does not address any of the records sought in the eleven bullets.</p> <p>Note: Bizzell <u>deceptively</u> includes Gulley email of May 22, 2017 at the end of Exhibit G, referencing responses to a completely unrelated May 23, 2014 email to which the May 22, 2017 email has no relationship whatsoever.</p>
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February 11, 2014

Track & Confirm Intranet Tracking Number Result

Result for Domestic Tracking Number 7012 1640 0000 9665 4524

Destination and Origin

Destination

ZIP Code	City	State
20889	BETHESDA	MD

Origin

ZIP Code	City	State
223505500	ALEXANDRIA	VA

Tracking Number Classification

Class/Service

Class/Service: Priority Mail Certified Mail
Class of Mail Code/Description: PM / Priority Mail 1-Day™

Service Delivery Information

Service Performance Date: Scheduled Delivery Date: Tuesday, 01/28/2014
Predicted Delivery Date: Tuesday, 01/28/2014
Zone: 01
PO Box: N
Other Information: [Service Calculation Information](#)

Payment

Payment Type: Other Postage
Payment Account Number: 000000000000
Postage: \$5.60
Weight: 1 lb(s) 1 oz(s)
Rate Indicator: Flat Rate Padded Envelope

Extra Services

Extra Services Details

Description	Amount
Certified Mail	\$3.30
Return Receipt	\$2.70
No Insurance Included	\$0.00

Events

Event	Event Date	Event Time	Location	Input Method	Scanner ID	Carrier Route	Other Information
DISPATCHED FROM SORT FACILITY	01/28/2014	03:33	MERRIFIELD, VA 22081	System Generated			Dispatch Label ID: D814 4128 7222 1401 2892 3719 Request Delivery Record
ENROUTE/PROCESSED	01/27/2014	20:11	MERRIFIELD, VA 22081	Scanned	AFSM100-002-1	Destined to route 206895600	
DISPATCHED TO SORT FACILITY	01/27/2014	17:58	ALEXANDRIA, VA 22311	System Generated			Closeout Label ID: CT13 8492 5000 1401 2717 1331
ACCEPT OR PICKUP	01/27/2014	17:14	ALEXANDRIA, VA 22311	Scanned	030SHQ0H16	Scanned by route 2311P591	Facility Finance Number: 510122
ACCEPT OR PICKUP	01/27/2014	12:01	ALEXANDRIA, VA 22350	Scanned			Facility Finance Number: 510114

Enter up to 10 items separated by commas.

Select Search Type: Quick Search

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Version: 1.7.0.14

(2)

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February 11, 2014

Track & Confirm Intranet Tracking Number Result

Result for Domestic Tracking Number 7012 1640 0000 9665 1035

Destination and Origin							
Destination							
ZIP Code	City	State					
20889	BETHESDA	MD					
Origin							
ZIP Code	City	State					
221809998	VIENNA	VA					
Tracking Number Classification							
Class/Service							
Class/Service: Priority Mail Certified Mail							
Class of Mail Code/Description: PM / Priority Mail 1-Day™							
Service Delivery Information							
Service Performance Date: Scheduled Delivery Date: Wednesday, 11/27/2013							
Delivery Option Indicator: 1 - Normal Delivery							
Zone: 01							
PO Box: N							
Other Information: Service Calculation Information							
Payment							
Postage: \$5.60							
Weight: 0 lb(s) 11 oz(s)							
Rate Indicator: Flat Rate Padded Envelope							
Extra Services							
Extra Services Details							
Description	Amount						
Certified Mail	\$3.10						
Restricted Delivery	\$4.75						
Return Receipt	\$2.55						
No insurance included	\$0.00						
Events							
Event	Event Date	Event Time	Location	Input Method	Scanner ID	Carrier Route	Other Information
DISPATCHED FROM SORT FACILITY	11/27/2013	02:47	MERRIFIELD, VA 22081	System Generated			Dispatch Label ID: DS14 4129 7222 1311 2701 5718 Request Delivery Record
ENROUTE/PROCESSED	11/26/2013	22:12	MERRIFIELD, VA 22081	Scanned	SPBSTS-001-000003		
DISPATCHED TO SORT FACILITY	11/28/2013	17:27	VIENNA, VA 22180	System Generated			Closeout Label ID: CT13 8595 7000 1311 2616 3033
ACCEPT OR PICKUP	11/28/2013	16:09	VIENNA, VA 22180	Scanned			Facility Finance Number: 519318
ACCEPT OR PICKUP	11/26/2013	16:07	VIENNA, VA 22180	Scanned			Facility Finance Number: 519318

Enter up to 10 items separated by commas.

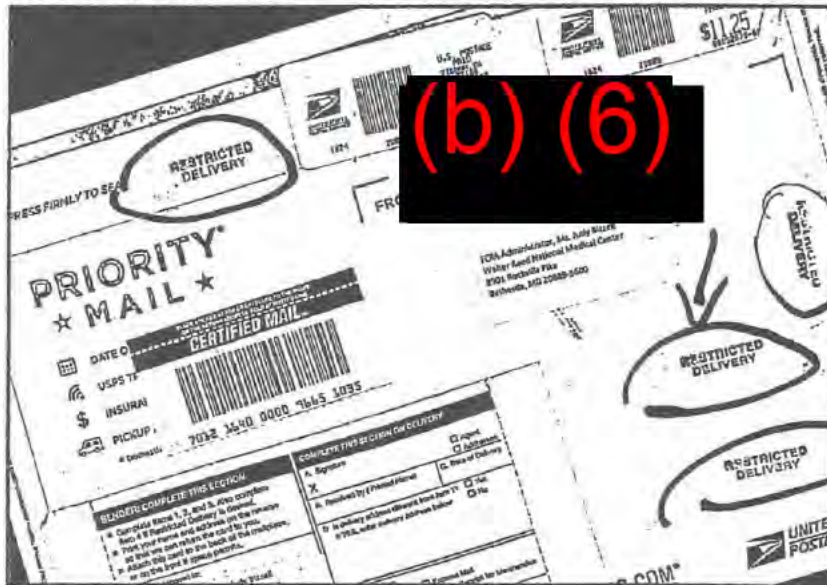
Select Search Type: Quick Search

Product Tracking System, All Rights Reserved
Version: 1.7.0.14

Dec 17th
picked
by
mail
orderly

(3)

MPE/Site/Mach: APBS/Northern VA PDC/1 Run-Oper: 0011-438 Date: 11/26/2013



MailPiece#: 10381202

Capture Time: 11/26/2013 22:12

Sort Plan: 438PG220

Operation: 438

Ind. Station: Auto 3 Side 1

Weight: 11.2 Oz. (0.7 lbs.)

MP Type: Parcel

Length: 6.6 In.

Process Time: 0.7 Sec.

Width: 12.4 In.

Bin: 8

Height: 1.8 In.

Rate:

Postage: N/A

ARU: BCR

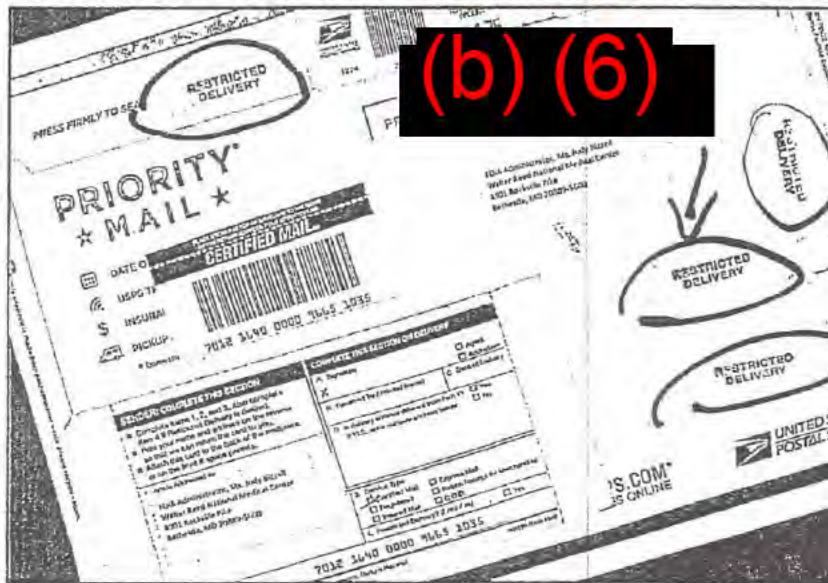
AR: BC: I2OF5: 20889

VCS:

OCR:

BCR:CODE 128: 70121640000096651035
I2OF5: 20889

MPE/Site/Mach: APBS/Northern VA PDC/1 Run-Oper: 0011-438 Date: 11/26/2013



MailPiece#: 10381202

Capture Time: 11/26/2013 22:12

Sort Plan: 438PG220

Operation: 438

Ind. Station: Auto 3 Side 1

Weight: 11.2 Oz. (0.7 lbs.)

MP Type: Parcel

Length: 6.6 In.

Process Time: 0.7 Sec.

Width: 12.4 In.

Bin: 8

Height: 1.8 In.

Rate:

Postage: N/A

ARU: BCR

AR: BC: I2OF5: 20889

VCS:

OCR:

BCR:CODE 128: 70121640000096651035

I2OF5: 20889



English

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To contact us, find

Have questions? We're here to help.

7012164000096651035

November 27, 2013

Postal Product:
Priority Mail 1-Day™Features:
Certified Mail™
Return Receipt

Restricted Delivery

Email Updates

DATE & TIME

STATUS OF ITEM

LOCATION

November 27, 2013

Depart USPS Sort
Facility

MERRIFIELD, VA 22081

November 26, 2013 , 10:12
pmProcessed at USPS
Origin Sort Facility

MERRIFIELD, VA 22081

November 26, 2013 , 5:27
pmDispatched to Sort
Facility

VIENNA, VA 22180

November 26, 2013 , 4:07
pm

Acceptance

VIENNA, VA 22180

What's your tracking (or receipt) number?

LEGAL

Privacy Policy
Terms of Use
USPS® and the Eagle®

ON USPS.COM

Commercial Services
Business Mail®
Business Mail with Package
Customer Service
E-mailing Solutions to the Small Business

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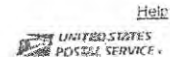
Business Mailboxes Through
Retail Partners
International Services
Media Center

USPS.COM

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© November 26, 2013

Track & Confirm Intranet Tracking Number Result

Result for Domestic Tracking Number 7012 1640 0000 9665 1035

Destination and Origin

Destination

ZIP Code	City	State
20889	BETHESDA	MD

Origin

ZIP Code	City	State
22180	VIENNA	VA

Tracking Number Classification

Class/Service

Class/Service: Priority Mail Certified Mail
 Class of Mail Code/Description: PM / Priority Mail 1-Day™

Service Delivery Information

Service Performance Date: Scheduled Delivery Date: 11/27/2013
 Delivery Option Indicator: 1 - Normal Delivery
 Zone: 01
 PO Box: N
 Other Information: [Service Calculation Information](#)

Payment

Payment Type: Other Postage
 Payment Account Number: 000000000000
 Postage: \$5.60
 Weight: 0 lb(s) 11 oz(s)
 Rate Indicator: Flat Rate Padded Envelope

Extra Services

Extra Services Details

Description	Amount
Certified Mail	\$3.10
Restricted Delivery	\$4.75
Return Receipt	\$2.55
No insurance included	\$0.00

Events

Event	Event Date	Event Time	Location	Input Method	Scanner ID	Carrier Route	Other Information
DISPATCHED FROM SORT FACILITY	11/27/2013	02:47	MERRIFIELD, VA 22081	System Generated			Dispatch Label ID: DS14 4129 2222 1311 2701 5718 Request Delivery Record
ENROUTE/PROCESSED	11/26/2013	22:12	MERRIFIELD, VA 22081	Scanned	SPB6TS 001-000003		
DISPATCHED TO SORT FACILITY	11/26/2013	17:27	VIENNA, VA 22180	System Generated			Closure Label ID: CT13 8595 2000 1311 2616 3033
ACCEPT OR PICKUP	11/26/2013	16:09	VIENNA, VA 22180	Scanned			Facility Finance Number: 519318
ACCEPT OR PICKUP	11/26/2013	16:07	VIENNA, VA 22180	Scanned			Facility Finance Number: 519318

Enter up to 10 items separated by commas.

Select Search Type [Quick Search](#)[Submit](#)

Product Tracking System, All Rights Reserved
 Version: 1.6.2.0

Merrifield Post Office

Dear Sir,

Please initiate a tracer on the certified mail attached. My contact information is;

Robert Hammond

(b) (6)

Recall: NARA Complaint ICO Walter Reed Destruction of Records. FOIA RE Certified Packages

per everance2013 via Unauthorized Disposition UnauthorizedDisposition@nara.gov Sat, Jan 16, 2021 at 10:00 PM

Reply-To: (b) (6)

To: UnauthorizedDisposition@nara.gov, Andrea Riley <andrea.riley@nara.gov>, GRS_Team <GRS_Team@nara.gov>

(b) (6)

(b) (6) would like to recall the message, "NARA Complaint
ICO Walter Reed Destruction of Records. FOIA RE Certified Packages".

 winmail.dat
2K

NARA Complaint ICO Walter Reed Destruction of Records. FOIA RE Certified Packages

per everance2013 via Unauthorized Disposition UnauthorizedDisposition@nara.gov Wed, Jan 27, 2021 at 6 10 AM
Reply-To: (b) (6)
To: UnauthorizedDisposition@nara.gov, Andrea Riley <andrea.riley@nara.gov>, GRS_Team <GRS_Team@nara.gov>
Cc: (b) (6)

(Best Viewed in HTML)

In furtherance to email below

Suffice it to say that records include

- the record relied upon by M Meki Gulley in her February 21, 2014 conversation with (b) (6) USPS, in which she stated that, "the Certify with label # 70121640000096654524 was picked up on February 12, 2012 by (b) (6). The Certify with label # 70121640000096651035 was picked up on December 17, 2013 by (b) (6)" Compl Ex. 18, at 11.

Thank you for your integrity and your diligence as you move forward with your investigation.

With my respect,

Robert Hammond

Whistleblower

From: (b) (6)
Sent: Saturday, January 16, 2021 9:59 PM
To: 'UnauthorizedDisposition@nara.gov' <UnauthorizedDisposition@nara.gov>; 'Andrea Riley' <andrea.riley@nara.gov>; 'GRS_Team' <GRS_Team@nara.gov>
Cc: (b) (6)
Subject: RE: NARA Complaint ICO Walter Reed Destruction of Records. FOIA RE Certified Packages

Best Viewed in HTML. Also see attachments. Pls have case manager for this complaint contact me to arrange a phone call.

In furtherance to email of January 16, 2021 3 52 PM below

- 1 Please notify the Agency by phone within 5 day Actual, impending, or threatened damage, alienation, or unauthorized destruction of records.
2. Please see attached Corrected complaint more succinctly stating the allegation for NARA to summarize in your contact with the Agency.
- 3 Please accurately state my allegation If you omit the name and position, it might read

We have received an allegation that, despite numerous notices to preserve records, Walter Reed National Military Medical Center, named individuals and others, destroyed records in anticipation of and during litigation and that further records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction for an April 26, 2014 FOIA request with the Requester Number FOIA WRNMC #14-1 seeking records related to certified mail tracking numbers 7012 1640000096651035 and 70121640000096654524 and the August 16, 2014 FOIA Appeal thereof. Records include those records that would indicate what actions, if any, Defendants, (including named individuals) took upon being notified of a potential Privacy breach in being unable to locate the two certified packages to one of which contained the Original 2012 DVD of a patient's medical records and the other contained sensitive documents. See District of Columbia Civil Action No. 16-421-KBJ, Dkt. No. 1, Complaint Ex. 18, at 3, 4, 6, 7 4 and 19 – 44 (attached).

Additionally, records of notices to preserve records, the forwarding of those notices and any actions taken in response to them, and numerous records of Walter Reed's FOIA Officer's actions/searches/contacts with others cited with exact dates in her declarations three years later during litigation, are alleged to have been destroyed or are in imminent danger of being destroyed. No one could recall such exact dates of actions/searches/contacts three years later during litigation without records, yet when sought during litigation in response to those declarations, records are missing.

From: (b) (6)
Sent: Saturday, January 16, 2021 3:52 PM
To: UnauthorizedDisposition@nara.gov; 'Andrea Riley' <andrea.riley@nara.gov>; 'GRS_Team' <GRS_Team@nara.gov>
Cc: (b) (6)
Subject: NARA Complaint ICO Walter Reed Destruction of Records. FOIA RE Certified Packages
Importance: High

Best Viewed in HTML Also see attachments Pls have case manager for this complaint contact me to arrange a phone call.

Actual, impending, or threatened damage, alienation, or unauthorized destruction of records

January 16, 2020

NARA Complaint ICO Walter Reed Destruction of Records. FOIA RE Certified Packages

I. ALLEGATION.

I am alleging that, despite numerous notices to preserve records, Walter Reed National Military Medical Center, named individuals: FOIA Officer Judy, J. Bizzell, Privacy Officer, Joseph E. Davidge, former Commander Brigadier General Clark, Mail Room Supervisor Meki Gulley, FOIA Office mail orderly, (b) (6) and others, destroyed records in anticipation of and during litigation and that further records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction for my April 26, 2014 FOIA request with my Requester Number FOIA WRNMC #14-1 seeking records related to certified mail tracking numbers 7012 1640000096651035 and 70121640000096654524 and my August 16, 2014 FOIA Appeal thereof. My Request seeks records that would indicate *what actions, if any*, Defendants, (including Walter Reed's Director, Brigadier General Clark and Walter Reed's Privacy Compliance Administrator, Joseph E. Davidge) took upon being notified of a potential Privacy breach in being unable to locate the two certified packages to one of which contained the Original 2012 DVD of my medical records and the other contained sensitive documents. *See* District of Columbia Civil Action No. 16-421-KBJ, Dkt. No 1, Complaint Ex 18, at 3, 4, 6, 7 4 and 19 44 (attached)

[Quoted text hidden]



Corrected. NARA Complaint ICO Walter Reed Destruction of Records FOIA RE Certified Packages w. attach.pdf
7098K

From: Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US) <judy.j.bizzell.civ@mail.mil>
Sent time: 06/20/2017 06:08:48 PM
To: (b) (6)
Cc: Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US) <judy.j.bizzell.civ@mail.mil>
Subject: RE: FOIA's Received
Attachments: First Class Letter mail SOP.DOCX PersonalOfficial Mail SOP.DOCX Registered mail.docx Second Notices SOP.DOCX SOP Customer Support.docx smime.p7s

(b) (6)

SUBJECT: Freedom of Information Act Requests

Dear Mr. Hammond:

This responds to your request for information under the Freedom of Information Act. In this particular request you seek "...WRNMMC mail room Standard Operating Procedures, desk guides or any other documentation related to package, mail, or certified mail delivery/receipt from USPS and subsequent pick up by WRNMMC from the WRNMMC mail room".

This request is assigned case number 17-02 (your case number 14-AA). Please refer to our case number, 17-02, when inquiring about this matter.

Attached, are documents this office received that are responsive to your request. All documents are released to you in full.

There is no charge for this information.

If you have questions, please contact me via return email.

Sincerely,

Judy J. Bizzell
Freedom of Information Act Officer
Walter Reed National Military Medical Center

-----Original Message-----

From: Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)
Sent: Tuesday, October 11, 2016 6:39 PM
To: (b) (6)
Cc: Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)
Subject: FOIA's Received

Mr. Robert Hammond

(b) (6)

SUBJECT: Freedom of Information Act Requests

Dear Mr. Hammond:

The following Freedom of information Act requests have been received in this Office: Your 2016-E; 16-D; 16-A; 16-C; 16-B; 15-C; 15-B; 14-AF; 14-AE; 14-AD; 14-X; 14-AC; 14-AB and 14-AA.

Due to the sheer volume of requests received, along with other requests, they have not been reviewed in full at this time. Each request is being reviewed and you will receive a tracking numbers (if applicable) no later than 21 October 2016.

If you have questions please respond to this email or call (301) 400-2315.

Sincerely,

Judy J. Bizzell
Freedom of Information Act Officer
Walter Reed National Military Medical Center
8901 Wisconsin Ave
Bethesda, MD 20889

(Postal Operations)

STANDARD OPERATING PROCEDURE

(FIRST CLASS LETTER MAIL)

Standard Operating Procedure No.	
Revision No:	
Original Date of Issue:	
Revision Date:	
Revised by:	
Approved by:	

Background: This SOP outlines in detail the steps taken to sort First Class letter mail for WRNMMC Postal Operations

Purpose: To provide instruction and consistency across the sorting of First Class letter mail into proper postal boxes.

Related Standards and Procedures:

- First Class mail includes all personal and official letters, magazines, and large envelopes addressed to individuals or departments/clinics at WRNMMC.
- Designated mail orderlies for each department/clinic must present mail card and photo identification to receive First Class and official mail.
- Personal mail (job related point of contact) may be received by addressee or other designated individual with DD Form 285 on file and with proper photo identification.
- Personal mail (mailbox recipient/general delivery) may receive mail with proper photo identification.

Procedure:

- Stamp all First Class letter mail, magazines, and large envelopes with current date onto the back side of envelope.
- Read whole the address line and sort all First Class letter mail according to the department/clinic or last name of an individual.
- Face all First Class letters, magazines, and large envelopes in the same direction.
- After verifying all First Class letters, magazines, and large envelopes, bundle with one rubber band.
- Place bundles into proper mail slot to the corresponding department/clinic or last name of an individual

Related Forms and documentation:

- DD Form 285- Appointment of Military Postal Clerk, Unit Mail Clerk, or Mail Orderly
-Used to verify if the person is eligible to handle official mail.
- PS Form 3801- Standing delivery order (signature &title of person authorized to sign for personnel designation of clinic/department).

(Postal Operations)**STANDARD OPERATING PROCEDURE****(PERSONAL MAIL/OFFICIAL MAIL/DIRECTORY SERVICE)**

Standard Operating Procedure No.	
Revision No:	
Original Date of Issue:	
Revision Date:	
Revised by:	
Approved by:	

Background: This SOP outlines in detail the steps taken to receive and prepare official and personal mail and the steps to direct and return mail for WRNMMC Postal Operations.

Purpose: To provide instruction and consistency across receiving, processing, and preparation of Official and personal Mail and provide guidelines for directing and returning mail.

Related Standards and Procedures:

Confirming service with Postal operations:

- Use the Naval Postal Directory System to check whether the individual has General Delivery (GD), a P.O. Box or no service with Postal Operations.

Procedure:

- Processing Incoming Personal Mail for residents of barracks:
- Personal Mail
 - Scan all tracking numbers. Sign into Smart track scanner and put all parcels/packages into postal cart.
 - Using Smart track
 - Scan tracking number.
 - Type Name. (Add name if not in system)
 - Type originating Location. (State and zip code e.g. MD 20889)
 - Type destination. Location, Service with last 3 of tracking number, clerk initial (e.g. GD D/C-123 TRP)
 - Print two labels. The first label will go on the package. The second label will go on PS Form 3849.
 - Stamp date on back of all mail

- Place all parcels/packages in correct location.
 - Parcels are sorted by last 3 of tracking number.
 - Flats/Packages are sorted by last name.
- Official Mail
 - Handwrite on PS Form 3883.
 - Check what type of service the official mail is (D/C, Certified, Express)
 - Write destination clinics name in upper right hand corner
 - Write the tracking number in given space.
 - Write location. (State and zip code e.g. MD 20889)
 - Write the date and initial.
 - Stamp date on back of all mail.
 - Attach PS Form 3883 on Official Mail.
 - Place all Official Mail in correct location.
 - Medium/large Parcels are placed on bottom shelf.
 - Departments with an official location.
 - Flats/packages in designated location.
- UPS/FEDEX/DHL
 - Write all packages from non USPS services in logbook.
 - Using Smart track
 - Scan tracking number.
 - Type Name. (Add name if not in system)
 - Type Location. (State and zip code e.g. MD 20889)
 - Type destination. Location, Service with last 4 of tracking number, clerk initial. (e.g. GD UPS-1234 TRP)
 - Print two labels. The first label will go on the package. The second label will go on Non USPS slip to include annotation of parcel/flat.
 - Stamp date on back of all packages.
 - Place all parcels/packages in correct location.
 - Parcels and flats are sorted by last name.
- Directory
 - Each mail clerk is assigned a group of letters to direct.
 - When mail is returned from a mail orderly it is returned to our directory system alphabetically
 - Type the name into the Naval Postal Directory System for routing purposes
 - Type name into WRNMMC staff search for routing purposes.
 - Type name into Global search for routing purposes.
 - If customer has forwarding address print out a DYMO label with correct address
 - Black out any barcodes on front and back

- Use date stamp on back
 - Date Received
 - Date forwarded
 - Clerk initials
- Return to sender
 - Mark through name.
 - Blackout Zip code and all barcodes on front and back.
 - Use Return to sender stamp. (make sure arrow is pointed to the sender address)
 - Use date stamp on back.
 - Date Received
 - Date forwarded
 - Clerk initials
 - Send all return mail through USPS, which is located next to postal operations.

(Postal Operations)**STANDARD OPERATING PROCEDURE****(REGISTERED MAIL)**

Standard Operating Procedure No.	
Revision No:	
Original Date of Issue:	
Revision Date:	
Revised by:	
Approved by:	

Background: This SOP outlines in detail the steps taken to receive and prepare Registered Mail for WRNMMC Postal Operations.

Purpose: To provide instruction and consistency across receiving, processing, and preparation of Registered Mail.

Related Standards and Procedures:

- All Registered mail must be turned into the Registry clerk NLT 1315 daily.
 - Registered personal mail(mailbox recipients/general delivery) must be claimed NLT 1400 daily.
 - Registry Cage must be secured by lock and two tin seals.
 - Containers used for Registered Mail must be secured when not in direct control of registry clerk.
 - Opening and closing of registry cage must be documented and a security review must be conducted at the close of registry business each day.
 - MPO's issue registry labels (PS Label 200) and PS Form 3877 to commands for official registered mail.
 - Enclose in the pouch two copies of PS Form 3854.
 - Select and examine the mail pouch. Do not use torn or damaged pouches.
 - Count pieces being dispatched and check count against the number of pieces listed on the inside bill and corresponding entry on the bill.
 - Ensure to have witness verify all registered numbers, all correct postage has been fixed, and items are properly sealed.
 - Place (no more than 200) small parcels loosely inside the pouch.
 - Close and secure the pouch with a numbered tin band seal after verifying the contents in the presence of a witness.
- **Procedure:**
- **Incoming Registered Mail from Mail orderlies:**
 - Mail orderlies are responsible for preparing PS Form 3877 in triplicate copies, and bring the registered mail and completed forms to post operations.

- Registry clerk verifies the registered numbers listed on PS Form 3877 against articles received, signs and APDS' all copies of the form. Two Copies are kept in the post office; one copy is returned to mail orderly.
- Back-stamp all registered mail received.

- **Incoming Registered Mail from Anacostia:**

- Registry clerk verifies the registered numbers listed on incoming manifest against articles received.
- Back-stamp all registered mail received.

- **Delivering Registered Mail:**

- Registered personal mail is delivered to addressee on PS Form 3849.
- After delivering the article, sign and copy front and back and file PS Form 3849 numerically by last three digits of the article number.
- Registered official mail is delivered to authorized mail orderlies on PS Form 3883.
- After delivering the article, sign and APDS PS Form 3883, file with the day's paperwork.

- **Preparing Registered Mail for Dispatch:**

- Registry clerk prepares a DD Form 2261(Balance and inventory).
- **Date:** from today until opening of business next business day. (6/16/16 to 6/17/16) or for weekend (6/17/16 to 6/20/16)
- **Items on hand at start of period:** The number of items on hand at start of period
- **Items accepted on PS form 3806 and 3877:** What is accepted over the window from Mail orderlies
- **Items accepted on inside bill:** Number of items accepted on PS Form 3854 from Anacostia
- **Items listed on incoming manifest:** Number of registered mail accepted on manifest from Anacostia.
- **Items listed on incoming truck bill:** Number of items accepted from truck.
- **Number of pouches/jackets closed:** Number of pouches closed with inside bill and seal.
- **Items received from other sources:** Items received from other sources.
- **Total of items 1 thru 7:** Total number from block 1-7.
- **Items delivered on PS form 3849 and 3883:** Registered mail delivered to customers from our Registered Cage
- **Items listed on inside bill:** Number on items listed on PS form 3854 generated by registry clerk.
- **Items listed on outgoing manifest:** number of items listed on manifest (OPNAV 5110/9) that was accepted by Anacostia.
- **Items listed on outgoing truck bills:** Number of items given to truck.
- **Number of pouches opened:** Number of Pouches opened
- **Items on hand at end of period:** Total number of items on hand at COB.
- **Total items 9 thru 14:** Total number from block 9-14.
- **Section C:** Write down tracking number of what was given out on 3849 in each box.
- **Remarks:** The seal numbers that will secure the registered cage.
- **Back page:** The tracking number of each item in cage. The seal on the registered bag is the tracking number
- **Print each page and then copy onto 1 page. Sign and then use AP Chop**

- **Registry clerk prepares PS form 3854(Inside bill)**
- **Change bill number to next sequential number**(look back if needed) (also change on right side of paper)
- **Change seal number to the seal that will be on bag.** (also change on right side of paper)
- **Write each tracking number of what will be going inside of bag.** (double check)
- **Total number of items sent in dispatch:** total number of item being dispatched
- **Witness and preparer:** Both the witness and preparer will sign after all items on PS Form 3854 are verified.
- **Print 3 copies and APDS top 2 of each page.** Sign and put 2 inside bag. The 3rd copy will go with the day's paperwork.

- **Registry clerk prepares OPNAV 5110/9(Outgoing Manifest)**
- **Change date to next business day.** Date is located in upper right hand.
- **Type name as dispatching clerk**
- **Type number of pieces.** (Each indivial item will be one)
- **Type classification.** (e.g. REG)
- **Type seal number of bag and each registered mail that cannot fit inside of bag but is still being dispatched.**
- **Weight:** weigh each registered mail that is being dispatched.
- **Total Pieces and total weight.** Add total pieces and total weight.
- **Print 3 copies and sign all 3.** APDS each manifest for date of going out.

- **Securing the Registry Cage**
- Use the same seals that are listed on DD 2261 in remarks.
- Make sure the cage is securely closed and locked.

(Postal Operations)
STANDARD OPERATING PROCEDURE
(SECOND NOTICES)

Standard Operating Procedure No.	
Revision No:	
Original Date of Issue:	
Revision Date:	
Revised by:	
Approved by:	

Background: This SOP outlines in detail the steps taken to prepare second notices for WRNMMC Postal Operations.

Purpose: To provide instruction for processing second notices

Related Standards and Procedures:

- Notices are conducted daily on USPS packages, unless the customer has a DD form 2258 on file in which we will hold all of their mail.
- Procedure:
 - Once we receive and process the packages for the day, we give our customers their first notice on a PS 3849
 - The second notice is issued 5 days after the initial notice on a PS 3849.
 - The third notice is issued 10 days after the initial notice on PS form 3849. At that time we will put the final notice date in the designated area.
 - After all notices have been issued and the package has not been claimed it will be returned to sender.

(Postal Operations)

STANDARD OPERATING PROCEDURE

(CUSTOMER SUPPORT/WINDOW)

Standard Operating Procedure No.	
Revision No:	
Original Date of Issue:	
Revision Date:	
Revised by:	
Approved by:	

Background: This SOP outlines in detail the steps taken to provide customer support for WRNMMC Postal Operations.

Purpose: To provide instruction and consistency across receiving, processing, and preparation of Mail.

Related Standards and Procedures:

Returning mail

- The customer support back up clerk will take all return mail to USPS at COB daily to be recirculated in USPS Postal System whether it's returned to sender or forwarded address.

Procedure:

Customer Support / Window

- Opening the Window
 - Open customer service window.
 - Check the date and place the clipboard at the window with Postal Operations Mail Call Sheet ready to be signed by the mail orderly that picks up mail.
- Closing the Window
 - Have the clerks complete the Postal ops Daily Checklist by initialing on the line beside each task done for the day.
 - Close the customer service window.
 - File the current Postal Ops Daily Checklist and Mail Call Sheet.
 - Prepare paperwork for next day. AP Chop both Postal Ops Daily Checklist and Mail Call Sheet with next day's date.

- Delivering Personal Mail/Customer support window
 - Check personnel's identification card.
 - Take personnel's PS Form 3849 (Delivery Notice/Reminder/Receipt).
 - Deliver all mail and packages by verifying package's tracking number with the tracking number listed on the PS Form 3849.
 - Have the personnel sign, print his/her name and fill out the delivery address at the delivery section on the back of the PS Form 3849.
 - Confirm the package was delivered by window clerk by signing the PS Form 3849 and AP chop with current date.
 - File the PS Form 3849 by last 2 of tracking number.
- Receiving Official Mail
 - Verify mail orderly's identification card and DD Form 285 (Appointment of Military Postal Clerk, Unit Mail Clerk or Mail Orderly).
 - Check if the official mail's font and format is within official guidelines.
 - Receive the official mail.
 - Sort in the appropriate tub (Letters, flats, SAMS, urine, FedEx, express, priority, delivery confirmation, certified, registered)
 - Tally on the Daily GIG Sheet (piece count) that was accepted at the window by appropriate service.
 - Quarterly stats are given to chain of command.
- Delivering Official Mail
 - Verify mail orderly's identification card and DD Form 285 (Appointment of Military Postal Clerk, Unit Mail Clerk or Mail Orderly).
 - Deliver all mail and packages by verifying package's tracking number with the tracking number listed on the PS Form 3883 (Firm Delivery Receipt for Accountable and Bulk Delivery Mail).
 - Fill out the date of delivery, delivered by, and number of pieces delivered on PS Form 3883 attached to the mail.
 - AP Chop with current date on the Postmark – Delivery office part of the PS Form 3883.
 - Have the mail orderly sign and print his/her name on the space provided.
 - Take the first copy of the receipt (white) and file.
 - Deliver the second and third copy of the receipt (pink and yellow) to the mail orderly.
 - Verify if mail orderly signed and completed the Mail Call Sheet.

- .Checking-in Personnel / Issuing a receptacle/General delivery
 - Verify personnel's identification card.
 - Get a copy of the personnel's barracks check-in form. Verify it's signed by the personnel and barrack's staff and dated.
 - If personnel are staying at the command for more than a year, issue a receptacle (if available).
 - Have the personnel fill out an OPNAV 5110/5 (Notice of Change of Address). Verify every field is correctly completed and signed to include cell phone number, and workstation, which is entered into Naval Postal Directory System.
 - Check for available receptacle and issue one with two duplicate keys.
 - Check if the keys that were about to issue is working.
 - Explain and give the personnel a copy of mailroom address and receptacle number/and or general delivery.
 - Record the sponsor's name, date of receptacle issue, and receptacles number on a DD Form 2262 (Receptacle Record).
 - Make a name / slide label with the date of issue and receptacle number. Place in the receptacle that was issued.
 - Write the personnel's name on the board and tickler.
 - Sign and AP chop OPNAV 5110/5 and give to customer service supervisor.
- Checking-out Personnel
 - Verify personnel's identification card.
 - Have the personnel fill out an OPNAV 5110/5 (Notice of Change of Address). Verify every field is correctly completed and signed.
 - Sign any check-out sheet from the personnel.
 - Sign and AP chop OPNAV 5110/5 and give to customer service supervisor.
 - Retrieve key from personnel assigned

(b) (6)

April 26, 2017

Office of General Counsel
National Capital Region Medical Directorate
Defense Health Agency
8901 Wisconsin Avenue (Building 27)
Bethesda, MD 20889
Phone: 1-703-681-6012
Fax: 1-703-681-6231
dha.ncr.dgc-fc.list.ogc-foia-appeals-owners@mail.mil
Also, sent by certified mail: 7016 2710 0001 0583 4108

Subject: Appeal of My FOIA Request – WRNMMC Mail Room Procedures

My Personal Reference Number: FOIA WRNMC #14-AA

Agency Individualized FOIA Tracking Number – 17-02

- References:
- (a) The Freedom of Information Act (FOIA)
 - (b) The Privacy Act
 - (c) CFR 164.526
 - (d) DoD 5700.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
 - (e) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation
 - (e) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011: “Your Right to Federal Records” (see <http://publications.usa.gov/USAPubs.php?PubID=6080>)
 - (g) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
 - (h) Department of Justice Freedom of Information Act Guide, May 2004 at Exemption 6 <http://www.justice.gov/oip/foia-guide-2004-edition-exemption-6>
 - (i) **GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act**

Dear Sir:

This appeal is submitted under the references above for my FOIA request of **July 27, 2014** together with my September 11, 2016 follow-up email at Enclosure (1) seeking WRNMMC mail room Standard Operating Procedures, desk guides or any other such documentation. My follow up email thread to the DOD Office of Deputy Chief Management Officer (ODCMO) is at Enclosure (2). Ms. Judy J. Bizzell’s email assigning a tracking number is at Enclosure (3). My follow up email of July 27, 2014 is at Enclosure (4). Enclosure (5) provides samples of some records that Walter Reed Mail Services maintains. Walter Reed is a subcomponent of Defense Health Agency (DHA) as of October 1, 2013, which is the start of fiscal year (FY) 2014.

RECORDS SOUGHT UNDER FOIA. I am respectfully seeking:

1. **all** WRNMMC mail room Standard Operating Procedures, desk guides or any other documentation related to package, mail, or certified mail delivery/receipt from USPS and subsequent pick up by WRNMMC from the WRNMMC mail room. This would include, but not be limited to procedures regarding notification to personnel regarding mail or packages that are ready to be picked up, procedures for logging in/recording receipt and pick up of packages, suspense or tracking logs for mail certified mail pick up, procedures for requiring signature for pickup of packages or certified mail, procedures for accepting certified mail from USPS, and procedures for handling or return of USPS PS Form 3811 Domestic Return Receipt forms;
2. as shown in Enclosure (5), records of processes relating to:
 - a. PS Form 3883, Firm Delivery Receipt for Accountable and Bulk Delivery Mail upon receiving packages from USPS, identifying the article number article number and delivery "mail for," which is signed and dated by the Mail Services person receiving the packages;
 - b. scanning procedures for certified mail package, including the signature of the Walter Reed employee when the employee picks up the package;
 - c. internal bar-code labelling to the certified package with the name of the person to receive the mail and the office for tracking in an internal mail delivery system;
 - d. USPS Form 3849 Delivery Notice/Reminder/Receipt, which records the signature of the person picking up the package;
3. a copy of this request in your reply. This request letter is an agency record and providing a copy of this request is an integral part of my FOIA request.

DISCUSSION

Certified mail processing at Walter Reed has been extremely problematic for many years, with certified mail packages allegedly not reaching their intended recipients and with Walter Reed recently being unresponsive to USPS inquiries.

My FOIA request was submitted to and received by Walter Reed on July 27, 2014. The FOIA Officer will not state otherwise under oath. Walter Reed failed to issue an initial determination within the statutory 21 days and failed to issue an agency individualized FOIA tracking number within 10 days. Walter Reed assigned tracking number 17-02 to my request on October 21, 2107, but has not issued any final determination to my three-year-old FOIA Request.

While Walter Reed incontrovertibly received my request on July 27, 2014, Walter Reed and DHA evidently:

failed to report my FOIA Request in respective Annual FOIA Reports submissions via DOD to Congress and the Attorney General in FY 2014;

failed to report my FOIA Request in FY 2015;

failed to report my FOIA Request in FY 2016;

failed to process FOIA requests in the order received.

The applicable Walter Reed Directors during this period are:

- Major. General. (Dr.) Jeffrey B. Clark
- Navy Rear Admiral. (Dr.) David Lane
- Army Colonel Michael. S. Heimall

Ms. Linda S. Thomas, who signs the DHA Annual FOIA Reports submissions to DOD and who has overall responsibility for FOIA Reporting within DHA, has been aware of Walter Reed/DHA noncompliant practices and false reporting for some time. The Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance has recently become aware of Walter Reed and DHA ongoing non-compliant practices and false reporting and has indicated a desire to resolve such matters internally within the DOD.

PUBLIC INTEREST.

The Freedom of Information Act “is often explained as a means for citizens to know ‘what their Government is up to.

There is significant public interest in the accuracy of FOIA Reporting to the Attorney General and to Congress. Records indicate that Walter Reed and DHA have been submitting inaccurate, incomplete, false reports for many years.

BASIS FOR APPEAL. I am appealing that the Agency:

- (1) Failed to issue a final determination on my request within the statutory 21 working days;
- (2) failed to provide me an agency individualized FOIA tracking number within 10 days;
- (3) failed to report my request in FY, 2014, 2015 and 2016, thereby denying my request the visibility that would have brought scrutiny of this aged request and submitting false reports via reporting chain to Congress and the Attorney General;
- (4) failed to process FOIA requests in the order received.

APPELLATE AUTHORITY ACTION SOUGHT. I am seeking that DHA:

- (1) address each element of the basis of my appeal fully and separately;
- (2) sustain each element of my appeal as failing to do so makes the DHA appellate authority complicit in the unlawful actions above;

- (3) remand my FOIA request back to the Agency for direct reply to me; and,
- (4) granted me new appellate rights following a subsequent reply by the Agency. Do not simply release records without restoring my appeal rights.

IMPROPERLY WITHHOLDING RECORDS

Pursuant to FOIA:

“Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Counsel, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Counsel recommends.” 5 U.S.C. § 552(a)(4)(F)(i).

PERJURY

Whoever-

(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;

is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

18 U.S. C. § 1621 - Perjury generally (June 25, 1948, ch. 645, 62 Stat. 773 ; Pub. L. 88-619, §1, Oct. 3, 1964, 78 Stat. 995 ; Pub. L. 94-550, §2, Oct. 18, 1976, 90 Stat. 2534 ; Pub. L. 103-322, title XXXIII, §330016(1)(I), Sept. 13, 1994, 108 Stat. 2147.

DEPARTMENT OF JUSTICE HANDBOOK – FOIA ANNUAL REPORTS

Department of Justice (DOJ) has issued a handbook addressing FOIA Annual Reports. *See DOJ, Handbook for Agency Annual Freedom of Information Act Reports*, “Disposition of FOIA

Requests,” (available at http://www.justice.gov/sites/default/files/oip/pages/attachments/2014/11/04/department_of_justice_handbook_for_agency_annual_freedom_of_information_act_reports.pdf) (“DOJ Handbook”).

Among other things, the DOJ Handbook states, “All requests (**perfected and non-perfected**), appeals, and consultations that were pending at any time during the relevant fiscal year [October 1st through September 30th] will be captured.” *See* The DOJ Handbook, at 7

DOD compiles data for Annual FOIA Reports on DD Form 2564, JUL 2013. All requests pending at the start of the fiscal year, received, processed and pending at the end of the fiscal year – including perfected and non-perfected requests - are recorded in Section V. A. Records released by DHA do not contain all such data. Data has evidently been deleted within the records released.

The DOJ Handbook also states:

“[E]ach agency is ultimately responsible for the **accuracy and completeness** of its Annual FOIA Report. It is therefore essential for agencies to take steps that will ensure that they are adequately tracking all of the information necessary to complete the Annual FOIA Report sections detailed below. Agencies that utilize a tracking or case management system for this purpose are responsible for ensuring that the system they are using can produce an accurate Annual FOIA Report that is in compliance with the law and Department of Justice guidance.

DOJ Handbook, at 3.

LEGAL FRAMEWORK OF FOIA

1. The definition of “records” includes:
“[A]ll books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made *or received* by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them.”
44 U.S.C. § 3301 (emphasis supplied).
2. FOIA requires each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person. 5 U.S.C. § 552(a)(3)(A).
3. FOIA requires that “ each agency shall— (A) establish a system to assign an individualized tracking number for each request received that will take longer than ten days to process and provide to each person making a request the tracking number assigned to the request.”
5 U.S.C. § 552(a)(7)(A).

4. FOIA requires that, “In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format.” 5 U.S.C. § 552(a)(3)(B).

5. FOIA requires that each agency shall “establish a telephone line or Internet service that provides information about the status of a request to the person making the request using the assigned tracking number, including the date on which the agency originally received the request; and an estimated date on which the agency will complete action on the request. 5 U.S.C. § 552(a)(7)(B).

6. determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor, and of the right of such person to appeal 5 U.S.C. § 552(a)(6)(A).

7. FOIA also requires federal agencies to make a final determination on FOIA administrative appeals that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal, unless the agency expressly provides notice to the requester of “unusual circumstances” meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(ii).

8. FOIA expressly provides that a person shall be deemed to have constructively exhausted their administrative remedies if the agency fails to comply with the applicable time limitations provided by 5 U.S.C. § 552(a)(6)(A)(I) - (ii). *See also* 5 U.S.C. § 552(a)(6)(C).

9. FOIA provides that any person who has not been provided the records requested pursuant to FOIA, after exhausting their administrative remedies, may seek legal redress from the Federal District Court to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.

10. Regarding the names of the FOIA requesters, the courts have held that under the FOIA requesters do not have an expectation of privacy. *Stauss v. IRS*, 516 F. Supp. 1218, 1223 (D.D.C. 1981),

11. Under FOIA, the federal agency has the burden of sustaining its actions. 5 U.S.C. § 552(a)(4)(B).

12. Pursuant to FOIA, a Court may assess attorney fees and litigation costs against the United States if the Plaintiff prevails in an action thereunder. 5 U.S.C. § 552(a)(4)(E).

This appeal is separate and distinct from any other appeals that I may file and may not be combined with any other appeal. I am not agreeing to combining separate appeals, as this would be improper, potentially distorting FOIA reporting to the United States Attorney General and impeding separate judicial review (if that becomes necessary). If you deny all or any part of this appeal, please cite each specific exemption you think justifies your determination and notify me of further remedies available under the law.

I will greatly appreciate your thoughtful and timely consideration of my Appeal. Please contact me if you have any questions regarding this Appeal. Thank you in advance.

With my respect,

Robert Hammond

Robert Hammond

Enclosures: (1) Hammond FOIA Request and September 11, 2016 follow-up email to Walter Reed
(2) Hammond February 25, 2017 follow up email thread to the Office of Deputy Chief Management Officer
(3) Ms. Judy J. Bizzell's October 21, 2016 email
(4) Hammond follow-up email of July 27, 2014
(5) Walter Reed Mail Services Records

Copy to:

Joo Y. Chung, Director, Directorate of Oversight and Compliance, ODCMO
Rear Admiral Colin G. Chinn, MC, USN, Acting Deputy Director, Defense Health Agency
Major. General. Jeffrey B. Clark, Director, Operations Directorate
Defense Health Agency
Rear Admiral David A. Lane, Director, Defense Health Agency National Capital Region
Medical Directorate
Colonel Michael. S. Heimall, Director Walter Reed National Military Medical Center
Interested Parties

Enclosure (1)

**Hammond FOIA Request and September 11, 2016
follow-up email to Walter Reed**

From: (b) (6)
To: judy.j.bizzell.civ@mail.mil
Sent: 9/11/2016 8:26:08 P.M. Eastern Daylight Time
Subj: Fwd: FOIA WRNMC #14-AA - WRNMMC Mail Room Procedures

Ms. Judy Bizzell
Freedom of Information Act (FOIA) Officer
Walter Reed National Military Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: FOIA Request – WRNMMC Mail Room Procedures

Requester Control Number: FOIA WRNMC #14-AA

References: (a) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, “Your Right to Federal Records”
(b) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(c) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
(d) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation

Dear FOIA Officer

I am following up on my Request, subject as above, dated April 26, 2014 and submitted by email on July 27, 2014, which has significantly exceed the statutory time for reply. Please provide me the official agency FOIA individualized tracking number assigned to this Request and current status of this Request.

Please also:

- Preserve all records of searches that you have performed and any that you perform in the future;
- preserve all records responsive to or potentially responsive to this request that existed at the time of this request until final action has been taken and the statutory time for judicial review has passed;
- retain all correspondence, including this letter, emails and other communications regarding this request in the FOIA case file and in the DHA FOIA case tracking database;
- retain all records of searches that you have conducted and those conducted in the future
- recover and preserve any records that have been archived;
- provide a final decision letter for this request that includes the responsive records.

Thank you.

With my respect,

Monday, April 24, 2017 (b) (6)

Robert Hammond

From: (b) (6)
To: judv.i.bizzell.civ@health.mil

(b) (6)

Sent: 7/27/2014 7:16:03 A.M. Eastern Daylight Time
Subj: FOIA WRNMC #14-AA - WRNMMC Mail Room Procedures

Robert Hammond

(b) (6)

April 26, 2014

Ms. Judy Bizzell
Freedom of Information Act (FOIA) Officer
Walter Reed National Military Medical Center
(WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: FOIA Request – WRNMMC Mail Room Procedures

Requester Control Number: FOIA WRNMC #14-AA

References: (a) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records"
(b) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(c) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
(d) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation

Dear Ms. Bizzell,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 522. If you deny all or any part of this request, please cite each specific exemption you think justifies your refusal to release the information and notify me of appeal procedures available under the law.

Documents Requested. I am requesting all WRNMMC mail room Standard Operating Procedures, desk guides or any other documentation related to package,

Monday, April 24, 2017 (b) (6)

mail, or certified mail delivery/receipt from USPS and subsequent pick up by WRNMMC from the WRNMMC mail room. This would include, but not be limited to procedures regarding notification to personnel regarding mail or packages that are ready to be picked up, procedures for logging in/recording receipt and pick up of packages, suspense or tracking logs for mail certified mail pick up, procedures for requiring signature for pickup of packages or certified mail, procedures for accepting certified mail from USPS, and procedures for handling or return of USPS PS Form 3811 Domestic Return Receipt forms.

Agreement to Pay. I agree to pay fees for searching or copying the records up to \$400. If the fees exceed this amount please advise me of the cost. I am a private citizen seeking this information. I do not believe that there should be any charge for providing these records.

Please cite the requester control number and include a copy of this request in your reply. This request is an agency record in its own right and providing a copy of this request is an integral part of my FOIA request, which helps to ensure that you fully address my request. Do not reply to more than one requestor control number in a single letter.

Reference (a) states that for requests ‘that will require more than ten days for the agency to process to FOIA requires agencies to assign a tracking number to your request. Each agency must provide a telephone number or website by which a requester can use the assigned tracking number to obtain information about the status of a pending request.’ DoD 5400.11-R, May 14, 2007, paragraph C3.1.1O. states: “Time Limits. “DoD Components normally shall provide access within 20 working days after receipt of the request. If access cannot be given within the 20 working day period, the requester shall be notified in an interim response.” Please provide me a tracking number for this request.

Reference (c) states, “DoD personnel are expected to comply with the FOIA, this Regulation, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust.”

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request. If you deem that any portion of my request is unclear, answer the remaining portions and I will perfect a request for additional material as needed.

With my respect,

Robert Hammond

Enclosure (2)

**Hammond February 25, 2017 follow up email thread
to the Office of Deputy Chief Management Officer**

Subj: **Re: FOIA Non-Compliance by Walter Reed (requests submitted 6...**
 Date: 4/24/2017 9:35:40 P.M. Eastern Daylight Time
 From: (b) (6)
 To: (b) (6)

In a message dated 2/25/2017 10:18:43 A.M. Eastern Daylight Time, (b) (6) writes:

Dear Mr. Tillotson,

I am forwarding the email thread below regarding the integrity of the Walter Reed/Defense Health Agency (DHA) FOIA (and Privacy Act (PA)) processes for your information or action as you may consider appropriate. This email thread of October 10, 2016 addresses some (of many) open FOIA requests dating back to FY 2014 that are almost certainly not being reported on Annual FOIA Reports to the Attorney General. Moreover, earlier and subsequent FOIA requests are likely not being accurately reported and PA matters are almost certainly not being properly reported to Congress.

Unfortunately, Ms. Linda S. Thomas (571-286-9517) who signs the DHA FOIA reports and is responsible for FOIA and HIPAA/PA compliance within DHA, has taken no action on this matter since she became aware of it several months ago. Moreover, no corrective action has been taken on many other FOIA/PA non-compliance matters dating back several years to the present. My personal observation is that non-complaint processes and inaccurate reporting may be ongoing at a significant level.

These are not "complex requests." One might ask why Walter Reed and DHA are fighting so hard to keep secret Walter Reed's FOIA report submissions, Walter Reed's FOIA, PA and mail room procedures and inspections records and Walter Reed's "Request for Amendment of Health Information" records.

One might surmise that these may be more management/leadership influence issues and DHA/Walter Reed legal staff advice that may not be in the best interest of the Department and individual employees rather than exclusively working-level employee intentional non-compliance issues. Consideration might be given to particular employees if that is the case.

Some have been rearranging deck chairs on the Titanic for many years. Now, there is only one lifeboat left within DoD and there aren't many seats left. This correspondence is being forwarded to others within DoD for situational awareness and to provide visibility. It may be also be forwarded to others later.

Thank you in advance for your consideration of these matters.

With my deep respect,

Robert Hammond

In a message dated 1/18/2017 8:53:00 A.M. Eastern Standard Time (b) (6) writes:

I will respond in due course. I am unable to give a precise date at this time. You have given

Monday, April 24, 2017 (b) (6)

us quite a number of actions to process.

Linda S. Thomas, JD, CIPP/G, PMP, CISSP
Chief, DHA Privacy and Civil Liberties Office
Office: 703-275-6363

(b) (6)

"Quality and Service Above All"

Please comment on our service at: VoiceoftheCustomer@dha.mil

-----Original Message-----

From: (b) (6)

Sent: Tuesday, January 17, 2017 5:52 PM

To: Thomas, Linda S CIV DHA PCL (US)

Cc: DHA NCR PCL Mailbox FOIA Requests; Brown, Nadine R CIV DHA PCL (US); Ross,

Doritha N CTR (US) (b) (6)

(b) (6)

Bizzell, Judy J CIV DHA NCR

MEDICAL DIR (US); Davidge, JOSEPH E (Joe) JR CIV DHA WRNMMC (US)

Subject: [Non-DoD Source] FOIA Non-Compliance by Walter Reed (requests submitted 6.2.2014 - 6.2.2014)

Dear Ms. Thomas,

When might I receive your findings and results of action taken on each of the very serious FOIA non-compliance matters identified below. As previously noted, you are personally responsible for FOIA compliance and the accuracy of FOIA reporting via your reporting chain to the Attorney General of the United States.

Per DHA web site:

=====

"Freedom of Information Act (FOIA)

The Defense Health Agency (DHA) Freedom of Information Service Center has principal authority to ensure Health Affairs (HA), DHA, and its components are in full compliance with the FOIA.

Liaison Officer

If you are concerned about service received from the HA/DHA FOIA Service Center, please contact the FOIA Liaison Officer at:

Defense Freedom of Information Policy Office
ATTN: Ms. Linda S. Thomas
Chief, Freedom of Information Service Center
Defense Health Agency
7700 Arlington Boulevard, Suite 5101
Falls Church, VA 22042-5101
Phone: (b) (6)

=====

Thank you,

Monday, April 24, 2017 (b) (6)

With my respect,

Robert Hammond

In a message dated 12/28/2016 6:18:42 A.M. Eastern Standard Time,

(b) (6)

Dear Ms. Bizzell,

Please address the 15 matters below and provide me the status of each FOIA request.

Dear Ms Thomas and Ms. Brown,

Please advise me of action taken to address these capacious and arbitrary violations of the FOIA and regulations and policies. Please address the 15 matters listed below.

Please preserve this correspondence in each FOIA case file until the longer of the statutory time for judicial review has passed or the NARA approved schedule.

With my respect,

Robert Hammond

In a message dated 12/2/2016 8:44:12 A.M. Eastern Standard Time,

(b) (6)

with attachment.

In a message dated 12/2/2016 8:42:48 A.M. Eastern Standard Time,

(b) (6)

Dear Ms. Bizzell,

You have not addressed the important matters in this correspondence which was sent to you via email, fax and mail. In particular, you have not addressed the delayed processing and delayed assignment of tracking numbers to my requests at the time - and within the same fiscal year - that they were submitted. Moreover, you have not acknowledged my request for Walter Reed's FY 2014 Annual FOIA Report Submission records. I contend that your FY 2014 report submission is inaccurate and incomplete.

Regarding tracking numbers, FOIA requires that "each agency shall establish a system to assign an individualized tracking number for each request received that will take longer than ten days to process and provide to each person making a request the tracking number assigned to the request" 5 U.S.C. § 522(a)(7)(A).

Your actions and failure to act, together with the those actions and failures to act of the Walter Reed Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office, [Redacted] constitute clear violations of the Freedom of Information Act and governing regulations and policies that go to the heart of the integrity of the FOIA process and the accuracy of FOIA reporting via your reporting chain to the Attorney General of the United States.

Ms. Thomas,

Your office has responsibility for FOIA compliance within DHA and any errors or omissions in Walter Reed's FOIA reporting to you affects the accuracy and integrity of the

Monday, April 24, 2017 (b) (6)

DHA Annual FOIA report submissions. You have previously been provided numerous examples of potential violations and inaccurate reporting. These matters are worthy of Senior Leadership attention and are instructive for your staff members on this email.

I am requesting that you acknowledge this correspondence by return email to all and that you promptly open an investigation to address the matters in this correspondence. Hard copy will be faxed and mailed to you.

Thank you,

With my respect,

Robert Hammond

From: (b) (6)
 To: judy.bizzell.civ@mail.mil, (b) (6)

(b) (6)

CC: (b) (6)

(b) (6)

Sent: 11/3/2016 6:14:03 A.M. Eastern Daylight Time
 Subj: Re: FOIA's Received

Dear Ms. Bizzell,

Your extraordinarily delayed reply and assignment of fiscal year (FY) 2017 FOIA tracking numbers to these prior FY FOIA requests in your email below, many of which were submitted to you over two years ago, suggests a lack of integrity in Walter Reed's FOIA processing as well as a lack of integrity and accuracy of your annual FOIA report submissions via your reporting chain to the Attorney General of the United States. This is worthy of senior leadership and Defense Health Agency (DHA) Privacy and Civil Liberties Office oversight attention and action. Your annual FOIA report submissions also impact the accuracy of those within your reporting chain, which has been the subject of significant correspondence with Walter Reed and DHA dating back to 2013.

Please reply to all parties on this email when addressing the FIFTEEN action items in this email.

For your convenience, I am including as "Attachment A" a 44 page PDF file containing the relevant initial FOIA submissions to you, which are summarized in the table below. The table omits some intervening FOIA requests so as not to confuse matters; however, FOIA tracking numbers and Walter Reed responses are due for those as well.

=====

My Personal
 Requester CTRL #

Title/Subject

Monday, April 24, 2017 (b) (6)

Date
Submitted

Best Guess of WRNMMC
Agency
Assigned # (?)

=====

WRNMC #14-X

WRNMMC Correspondence containing Six D Forms 2870

6/2/2014

17-01

=====

WRNMC#14-AA

WRNMMC Mail Room Procedures

7/27/2014

17-02

=====

WRNMC#14-AB

WRNMMC FOIA Instructions, SOPs, Desk Guides

9/2/2014

17-04

=====

WRNMC#14-AC

WRNMMC Privacy Act (PA) and Health Insurance Portability Accountability Act (HIPAA) Instructions,
SOPs, Desk Guides

9/2/2014

17-05

=====

WRNMC#14-AD

WRNMMC FOIA Office Scanner Repair

9/2/2014

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WRNMC#14-AE

Privacy Act (PA)/ Health Insurance Portability and Accountability Act
(HIPAA) Training Completed by the WRNMMC Department Chief, IDP AAIPrivacy
Act/FOIA/Civil Liberties Office

9/2/2014

17-03

=====

WRNMC#14-AF

WRNMMC Privacy Office Inspections

9/2/2014

17-14

=====

WRNMMC #15-B

FOIA WRNMMC #15-B Form Entitled "Request for Amendment of Health Information

6/20/2015

17-15

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WRNMMC #15-C

Privacy Act Requests From January 1, 2013

6/20/2015

17-06

=====

WRNMC #16-A

Records Associated With Request for Correction of Medical Record Entries of Ms. Michele O.Afriye,
and Ms. Angela N. Leung (subsequently known as Angela Ngar Jee Mamangun)

11/8/2015

17-07

=====

WRNMC #16-B

Records of Inpatient Disclosure for Hammond, Robert for June 28th 2007 to June 29th 2013

11/8/2015

17-16

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WRNMC #16-C

Medical Records Correction Request - MHT TURA Y MARIATU H. CIV 3374

11/8/2015

17-08

WRNMC #16-D

Records Associated Medical Records Correction Request 1to 1 Sitter/Catheter

11/8/2015

17-09

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WRNMC #16-E

Medical Records Correction Request - Laboratory values

1/8/2015

17-10

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WRNMMC #16-F

FY 2015 Annual FOIA Report Supporting Records

9/19/2016

17-11

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WRNMMC #16-G

FY 2014 Annual FOIA Report Supporting Records

9/19/2016

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Please address the following:

1. Please address your assignment of a fiscal year 2017 FOIA tracking number for each of the FOIA requests noted above and in Attachment A along with your rationale for not assigning a FOIA tracking number in the correct fiscal year when each request was received.
2. Please address the non-sequential tracking numbers and gaps in your FY 2017 tracking numbers. You don't get to pick/alter the order in which requests are recorded as received in order to sequence them for processing.
3. Please address the omission of my Request #14-AD seeking records of the WRNMMC FOIA Office Scanner Repair, which was submitted after you alleged that Walter Reed did not have the

capability to create PDF files in order to reply to my requests in the required format. PDF files remove any ambiguity in the what records were/are sent in reply to my FOIA requests, as some of past assertions of records provided in paper form are not factual.

4. Please address your omission of my Request 15-G seeking your FY 2014 Annual FOIA Report Supporting Records.

5. Please provide for each request the projected date of Walter Reed's reply providing your determination of each request with release of responsive records (or the statutory basis for denial thereof), the reason for delay in processing and if you are asserting that any request is complex.

6. Please indicate if you did not receive each FOIA request on the date indicated above and in Attachment A.

7. Please indicate if you entered each request in your FOIA tracking log at the time that it was submitted/received.

8. Please indicate why no FOIA tracking number was assigned within ten days of the dates noted above and in Attachment A.

9. In recent adjudication of HIPAA matters and FOIA mediation, statements have been attributed to you specifically and/or your office that you did not receive certain FOIA request submissions. Please indicate if it is your assertion that you did not receive any of the emails in Attachment A and if so the circumstances supporting your assertion.

10. It now appears that you and the Walter Reed FOIA and legal staffs may be preparing to assert (as a feeble explanation for inaccurate FOIA reporting and non-compliance with governing laws, regulations and policies) that Walter Reed does not respond to FOIA requests submitted by email [and accompanying fax], which has not been your past practice. You have been communicating with me by email at this email address continuously since 2013, responding to requests, follow-ups and various other matters, and you have never notified me of such a policy (despite FOIA requests seeking you policies and procedures). Both you and Mr. Davidge were recently each provided DVDs containing relevant email correspondence, which you acknowledge receiving thereby enabling you both to access each and every email. Please state for the record whether or not you and/or Walter Reed are asserting that Walter Reed does not respond to FOIA requests submitted by email and if that is your assertion when that policy/practice went into effect and who was notified of the change.

11. In recent adjudication of HIPAA matters and FOIA mediation, statements have been attributed to you specifically and/or your office that you spoke to me by telephone regarding FOIA requests, which is FACTUALLY INCORECT. In fact, Walter Reed abruptly withdrew from mediation regarding a 2013 FOIA request (that you acknowledge receiving in FY 2013) when challenged on that factually incorrect assertion and asked to provide any and contemporaneous records supporting the false statement(s). You have never spoken to me on the phone and my only telephonic contact with your office was with Mr. [Redacted] in early 2013 when Mr. [redacted] initiated phone contact to falsely state that two medical professionals were no longer assigned to Walter Reed and that Walter Reed therefore had no responsible to address medical record amendment requests related to them.

a. Please state for the record if it is your assertion that you have spoken to me by telephone at any time whatsoever and if that is your assertion please and identify the time, date, call initiator and any and all contemporaneous records supporting your assertion (such as entries in your FY 2013 FOIA processing log, etc.).

12. Please note that for each request, the records sought are as of the time and date of each request as indicated above and Attachment A. For example, my FOIA Request #14-AB seeks WRNMMC (Walter Reed) FOIA Instructions, SOPs, Desk Guides that existed at the time of my request on September 2, 2014 and my FOIA Request #15-B seeks records related to the Form Entitled "Request for Amendment of Health Information" as of the time of my request on June 20, 2015.

13. Please identify if notification of any of my requests was forwarded to any other party prior to my follow-up emails to you of September 11, 2016 and if so your purpose in doing so and to

whom each such request was forwarded. Please note that any destruction of records following the date and time indicate in the emails contained in Attachment A would be a violation of governing laws, regulations and policies.

14. Attachment B contains 59 p[ages of my most recent follow-up emails to you of September 11, 2016 regarding these requests. Please indicate if you did not receive each of the emails in Attachment B on September 11, 2016 and if it is your assertion that you did not receive any email, please indicate the circumstances as to why you did not.

15. Please state for the record what dates you assert that you received Attachment A and Attachment B. Your delayed reply suggests internal manipulation of receipt dates in order to cover up non-compliance with governing laws regulations and plicies.

There is significant public interest in the integrity of the FOIA process and the accuracy of FOIA reporting to the Attorney General of the United States as well as the subject matte4r of each request.

Thank you.

With my respect,

Robert Hammond

In a message dated 10/11/2016 6:39:00 P.M. Eastern Daylight Time, judy.j.bizzell.civ@mail.mil writes:

Mr. Robert Hammond

(b) (6)

SUBJECT: Freedom of Information Act Requests

Dear Mr. Hammond:

The following Freedom of information Act requests have been received in this Office: Your 2016-E; 16-D; 16-A; 16-C; 16-B; 15-C; 15-B; 14-AF; 14-AE; 14-AD; 14-X; 14-AC; 14-AB and 14-AA.

Due to the sheer volume of requests received, along with other requests, they have not been reviewed in full at this time. Each request is being reviewed and you will receive a tracking numbers (if applicable) no later than 21 October 2016.

If you have questions please respond to this email or call (301) 400-2315.

Sincerely,

Judy J. Bizzell
Freedom of Information Act Officer
Walter Reed National Military Medical Center
8901 Wisconsin Ave
Bethesda, MD 20889

Subj: **RE: FOIA's Received**
 Date: 4/13/2017 6:07:14 P.M. Eastern Daylight Time
 From: judy.j.bizzell.civ@mail.mil
 To: (b) (6)
 CC: judy.j.bizzell.civ@mail.mil

Dear Mr. Hammond:

This is in follow-up to my below email. The following requests are being answered:

1. WRNMMC Case # 17-05 (your 14-AC); wherein you request copies of "...all WRNMMC Generated documentation currently in effect regarding policy, procedures, instructions, notices or practices related to the processing of Privacy Act and Health Insurance Portability Accountability Act requests..."

RESPONSE: Please see the attached WRNMMC HIPAA Binder. All information within this binder is released in full.

2. WRNMMC Case #17-14 (your 14-AF); wherein you request inspections of the WRNMMC Defense Privacy Program within the past three years.

RESPONSE: A search resulted in there being No Record of the requested documents.

3. WRNMMC Case #17-16 (your 16B); wherein you request "A record of inpatient disclosure for Hammond, Robert for June 2007 to Jun 29 2013 that shows the time of access and a "key" that explains the codes under the column "PERM"".

RESPONSE: This request went to our Medical Records department for review and response. That office has informed that additional information is needed in order to respond to this request as it is unclear at this time. Please resubmit your request; providing a copy of the document in question if possible, so that we may better assist you.

4. WRNMMC Case #17-04 (your 14B); wherein you request "policy, procedures, instructions, notices, or practices related to the processing of FOIA requests..."

RESPONSE: The Below information governs FOIA. You can access this information via DHA Website and/or GOOGLE:

DoD Freedom of Information Act Defense Freedom of Information Policy Office

Policy: This website contains specific information about the DoD Program and its implementation by DoD which includes the Defense Health Agency (DHA). This website includes electronic copies of current FOIA information, including but not limited to the DoD FOIA Regulation, handbooks, briefings, guidance, reports, reading room, etc.

Identification #: N/A

Date: 8/13/2013

Type: Guidelines

Topics: Freedom of Information Act

DoDD 5400.07, DoD Freedom of Information Act Program

Policy: This Directive reissues DoD Directive 5400.07, "DoD Freedom of Information Act (FOIA) Program," October 28, 2005 (hereby cancelled) to update policies and responsibilities for implementing the DoD FOIA Program in accordance with Section 552 of title 5, United States Code (commonly known as the "FOIA"); continues to authorize DoD 5400.7-R, "DoD Freedom of Information Act Program," September 4, 1998, as amended, to implement the

FOIA Program; implements Executive Order 13392, "Improving Agency Disclosure of Information," December 19, 2005, within the Department of Defense; and continues to delegate authorities and responsibilities for the effective administration of the FOIA Program consistent with DoD Directive 5105.53.

Identification #: DoDD 5400.07

Date: 1/2/2008

Type: Directives

Topics: Freedom of Information Act

E-Government (E-Gov) Act of 2002, Section 208

Policy: The purpose of this section of the E-Government Act of 2002 is to ensure sufficient protections for the privacy of personal information as agencies implement citizen-centered electronic government.

Identification #: Section 208

Date: 12/17/2002

Type: Federal Regulations

Topics: Freedom of Information Act

DoD 5400.7-R, DoD Freedom of Information Act Program

Policy: This Regulation provides guidance on the implementation of the Freedom of Information Act, amended by the "Electronic Freedom of Information Act Amendments of 1996."

Identification #: DoD 5400.7-R

Date: 9/4/1998

Type: Federal Regulations

Topics: Freedom of Information Act

Freedom of Information Act (FOIA), 5 U.S.C. 552

Policy: This is the full text of the Freedom of Information Act (FOIA) in a form showing all amendments to the statute made by the "Openness Promotes Effectiveness in our National Government Act of 2007." All newly enacted provisions are in boldface type.

Identification #: 5 U.S.C. 552

Date: 10/2/1996

Type: Federal Regulations

Topics: Freedom of Information Act

5. WRNMMC Case #17-13 (your 16AE); wherein you request "all documentation indicating completion of PA/HIPAA training by Joe Davidge...,within the past two years."

RESPONSE: Attached, please find training certificate for Joe Davidge for 2013, 2014 and 2016. The 2015 certificate is not available as there was a system change and the certs are no longer available.

6. WRNMMC Case #17-01 (your 14X) wherein you request "signed and serialized correspondence from WRNMMC FOIA case files that forwarded the referenced six DD Form 2870 to me. ...a copy of the staff summary sheet/route sheet that accompanied the letter as it was reviewed for signature..."

RESPONSE: The six (6) DD Form 2870's would be a part of "all" of your medical records. Therefore, this request was asked and answered in a letter mailed to you on/about 7/11/13 (WRNMMC Case #13-41). In that letter you were informed that your request was asked and answered from WRNMMC Case number 13-22 which provided you with "all" of your medical records. There

is No Record of a "staff summary sheet/route sheet."

Others requests you have pending in this office will be answered as soon as possible.

Sincerely,

Judy J. Bizzell
Freedom of Information Act Officer
Walter Reed National Military Medical Center
8901 Wisconsin Ave
Bethesda, MD 20889

-----Original Message-----

From: Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)
Sent: Tuesday, October 11, 2016 6:39 PM
To: (b) (6)
Cc: Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)
Subject: FOIA's Received

Mr. Robert Hammond

(b) (6)

SUBJECT: Freedom of Information Act Requests

Dear Mr. Hammond:

The following Freedom of information Act requests have been received in this Office: Your 2016-E; 16-D; 16-A; 16-C; 16-B; 15-C; 15-B; 14-AF; 14-AE; 14-AD; 14-X; 14-AC; 14-AB and 14-AA.

Due to the sheer volume of requests received, along with other requests, they have not been reviewed in full at this time. Each request is being reviewed and you will receive a tracking numbers (if applicable) no later than 21 October 2016.

If you have questions please respond to this email or call (301) 400-2315.

Sincerely,

Judy J. Bizzell
Freedom of Information Act Officer
Walter Reed National Military Medical Center
8901 Wisconsin Ave
Bethesda, MD 20889

Monday, April 24, 2017 (b) (6)

Enclosure (3)

Ms. Judy J. Bizzell's October 21, 2016 email

Subj: **RE: FOIA's Received / Case numbers assigned.**
 Date: 10/21/2016 4:08:35 P.M. Eastern Daylight Time
 From: judy.j.bizzell.civ@mail.mil
 To: (b) (6)
 CC: judy.j.bizzell.civ@mail.mil

Mr. Robert Hammond

(b) (6)

SUBJECT: Freedom of Information Act Requests

Dear Mr. Hammond:

This is in follow up to your Freedom of information Act requests. Each request has been assigned a case number as indicated below. Please refer to the appropriate WRNMMC case number when inquiring:

YOUR#	WRNMMC#
16-E;	17-10
16-D;	17-09
16-A;	17-07
16-C;	17-08
16-B;	17-16
16-F;	17-11
15-C;	17-06
15-B;	17-15
14-AF;	17-14
14-AE;	17-03
14-AD;	17-03
14-X;	17-01
14-AC;	17-05
14-AB	17-04
14-AA.	17-02

Once responsive documents are received (if any) you will be notified. If you have questions please respond to this email or call (301) 400-2315.

Sincerely,

Judy J. Bizzell
 Freedom of Information Act Officer
 Walter Reed National Military Medical Center
 8901 Wisconsin Ave
 Bethesda, MD 20889

-----Original Message-----

From: Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)
 Sent: Tuesday, October 11, 2016 6:39 PM
 To: (b) (6)
 Cc: Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)
 Subject: FOIA's Received

Mr. Robert Hammond

(b) (6)

SUBJECT: Freedom of Information Act Requests

Monday, April 24, 2017

(b) (6)

Dear Mr. Hammond:

The following Freedom of information Act requests have been received in this Office: Your 2016-E; 16-D; 16-A; 16-C; 16-B; 15-C; 15-B; 14-AF; 14-AE; 14-AD; 14-X; 14-AC; 14-AB and 14-AA.

Due to the sheer volume of requests received, along with other requests, they have not been reviewed in full at this time. Each request is being reviewed and you will receive a tracking numbers (if applicable) no later than 21 October 2016.

If you have questions please respond to this email or call (301) 400-2315.

Sincerely,

Judy J. Bizzell
Freedom of Information Act Officer
Walter Reed National Military Medical Center
8901 Wisconsin Ave
Bethesda, MD 20889

Enclosure (4)

Hammond follow up email of July 27, 2014

From: (b) (6)
 To: judy.j.bizzell.civ@health.mil
 CC: (b) (6)
 Sent: 7/27/2014 9:42:58 A.M. Eastern Daylight Time
 Subj: FY 2014 Open FOIA Cases as of July 27, 2014

Dear Ms Bizzell,

Below is a listing of my open FOIA cases with your assigned tracking numbers, as I understand them. Please advise me of any differences with your records and provide me the URL of a web site where I may track the status of my requests.

My Requester CTRL #	Title	Date	Method	WRNMMC #
WRNMC 14-A	File Copy of your letter 5700 Ser 00QM/001207	1/17/2014	email	
WRNMC #14-B	Personnel Record Information fo (b) (6)	4/26/2014	email	FOIA #14-31
WRNMC #14-C	Personnel Record Information for Judy.J.Bizzell.civ@health.mil	4/26/2014	email	FOIA #14-32
WRNMC #14-D	Personnel Record Information fo (b) (6)	5/6/2014	email	FOIA #14-33
WRNMC #14-E	Personnel Record Information fo (b) (6)	4/26/2014	email	FOIA #14-34
WRNMC #14-F	Personnel Record Information for (b) (6)	4/26/2014	email	FOIA #14-35
WRNMC #14-G	Personnel Record Information for (b) (6)	4/26/2014	email	FOIA #14-36
WRNMC #14-H	Personnel Record Information for (b) (6)	4/26/2014	email	
WRNMC #14-I	Certified mail tracking numbers 7012 1640 0000 9665 1035 and 7012 1640 0000 9665 4524	4/26/2014	email	FOIA #14-38
WRNMC #14-j	DVD Chain of Custody	4/26/2014	email	FOIA #14-39
WRNMC #14-K	Performance Standards of Ms. Judy Bizzell	4/26/2014	email	FOIA #14-40
WRNMC #14-L	Performance Standards of Mr. Joe. E. Davidge	4/26/2014	email	FOIA #14-41
WRNMC #14-M	Access to ESSENTRIS Lab Flowsheet	4/26/2014	email	
WRNMC #14-N	FOIA Tracking Numbers	4/26/2014	email	FOIA #14-43
WRNMC #14-O	DD Form 2870 Record Schedule	4/26/2014	email	FOIA #14-44
WRNMC #14-P	DD Form 2870 April 10, 2012 Disclosure; follow up 2014 05 25	4/26/2014	email	
WRNMC #14-Q	DVD Disk Label Image	4/26/2014	email	FOIA #14-46
WRNMC #14-R	Disclosures Related to From: (b) (6) email Sent: 12/11/2013 6:15:44 P.M. Eastern Daylight Time, Subj: RE: Medical records	4/26/2014	email	
WRNMC #14-S	Disclosures Related to (b) (6) Sent: 11/13/2013 12:00:32 P.M. Eastern Daylight Time, Subj: RE: URGENT Potential Breach of Protected Privacy Act Information	4/26/2014	email	
WRNMC #14-T	ESSENTRIS Lab Flowsheet Print Out	4/26/2014	email	
WRNMC #14-U	WRNMMC FOIA and Privacy Act Reporting Chain of Command	5/6/2014	email	
WRNMC #14-V	FOIA Tracking Numbers; WRNMC #14-B through #14-U	5/26/2014	email	FOIA #14-48
WRNMC #14-W	Mandatory Privacy Act Training	5/26/2014	email	
WRNMC #14-X	WRNMMC Correspondence containing Six D Forms 2870	6/2/2014	email	
WRNMC #14-Y	WRNMMC SOP Regarding the Critical Value for Sodium	6/2/2014	email	
WRNMC #14-Z	Fairfax Health Center Records	7/7/2014	email	
WRNMC#14-AA	WRNMMC Mail Room Procedures	7/27/2014	email	

Thank you.

With my respect,

Robert Hammond

Tuesday, April 25, 2017 (b) (6)

Enclosure (5)

Walter Reed Mail Services Records

Enclosure

Emails from Meki Gulley, November 22, 2016; March 25, 2016

Cygnarowicz, Paul T CIV (US)

From: Gulley, Meki C CIV USN NSA BETHESDA MD (US)
Sent: Tuesday, November 22, 2016 9:29 AM
To: Cygnarowicz, Paul T CIV (US)
Subject: FW: DHA FOIA Request - Online Submission
Attachments: FOIA DHA 16-A - Certified Packages February and March 2016.pdf
Signed By: (b) (6)

Hello Mr. Cygnarowicz,

This is the information that was forwarded to Mr. Bizzell in reference to the attachment from Mr. Hammond.

V/r,

Ms. Gulley

-----Original Message-----

From: Gulley, Meki C CIV USN NSA BETHESDA MD (US)
Sent: Friday, March 25, 2016 12:51 PM
To: Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)
Subject: FW: DHA FOIA Request - Online Submission

Ms. Bizzell - This is the response to the Certified packages that Mr. Robert Hammond is inquiring about.

2. 7012 1640 0000 9665 1073, Joe Davidge, WRNMMC, received in mailroom 17 Feb 2016; picked up 2 Mar 2016 by (b) (6)
3. 7012 1640 0000 9665 4500, Judy Bizzell, WRNMMC, received in mailroom 17 Feb 2016; pick up to be determined
4. 7012 1640 0000 9665 1059, RADM Lane, WRNMMC, received in mailroom 24 Feb 2016; picked up 7 Mar 2016 by (b) (6)
5. 7012 1640 0000 9665 1066, Joe Davidge, WRNMMC, received in mailroom 24 Feb 2016; picked up 2 Mar 2016 by (b) (6)
6. 9590 9521 0615 0285 9647 05, WRNMMC, Davidge/Bizzell;; No records found - mailroom did not receive. Called Anacostia 25 Mar 2016 and it is not in their system; however, according to USPS this tracking number is referenced with 7012 1640 0000 9665 1059 (RADM Lane), which was received and picked up.
7. 7015 0640 0007 9605 9377, Judy Bizzell, WRNMMC, received in mailroom 15 Mar 2016; pick up to be determined
8. 9593 7000 0085 6070 0002 52, Joe Davidge, WRNMMC, received in mailroom 15 Mar 2016; pick up to be determined

-----Original Message-----

From: Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)
Sent: Tuesday, March 22, 2016 11:19 AM
To: Gulley, Meki C CIV USN NSA BETHESDA MD (US)
Cc: Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)
Subject: DHA FOIA Request - Online Submission

Ms. Gulley - Attached and below are requests under the Freedom of Information Act (FOIA) for Mr. Robert Hammond.

As you are aware, the FOIA has a very strict time line for answering requesters. Therefore, you are asked to respond to this office no later than Tuesday, 29 March 2016.

Thank you for your time and attention to this matter.

Sincerely,

Judy J. Bizzell
Freedom of Information Act Officer
Walter Reed National Military Medical Center
8901 Wisconsin Ave
Bethesda, MD 20889

RECORDS SOUGHT:

Records Sought Under the FOIA. I am respectfully seeking for the certified packages listed below and shown in enclosure (1) all records in DHA or WRNMMC possession regarding these packages from the time of receipt in the respective mailrooms to receipt by the addressees and return of postal receipts. Responsive records include but are not limited to: mailroom delivery receipts, mailroom logs, records of notification to addresses or their designated mail custodians by any means of mail to be picked up, receipt pickup acknowledgement and United States Postal Service PS Forms 3811, Domestic Return Receipt for the certified packages. The certified packages are:

1. 7012 1640 0000 9665 4517, VADM Bono, DHA, delivery
2. 7012 1640 0000 9665 1073, Joe Davidge, WRNMMC, restricted delivery
3. 7012 1640 0000 9665 4500, Judy Bizzell, WRNMMC, restricted delivery 4. 7012 1640 0000 9665 1059, RADM Lane, WRNMMC
5. 7012 1640 0000 9665 1066, Joe Davidge, WRNMMC
6. 9590 9521 0615 0285 9647 05, WRNMMC FOIA/HIPAA/PA Office, Davidge/Bizzell, FOIA restricted delivery
7. 7015 0640 0007 9605 59377, WRNMMC FOIA/HIPAA/PA Office, Davidge/Bizzell, restricted delivery

In your reply please separately address by the reference number above how your reply addresses each element of the above records sought, including "no records found" for any specific records sought.

-----Original Message-----

This FOIA Request seeks records of certified packages from receipt in the Walter Reed National Military Medical Center (WRNMMC) and DHA mailrooms through delivery of the packages and return of postal receipts for seven certified packages for which receipt has not been acknowledged. Responsive records related to this request are held at both DHA and DHA's subordinate command WRNMMC.

Records Sought Under the FOIA. I am respectfully seeking for the certified packages listed below and shown in enclosure (1) all records in DHA or WRNMMC possession regarding these packages from the time of receipt in the respective mailrooms to receipt by the addressees and return of postal receipts. Responsive records include but are not limited to: mailroom delivery receipts, mailroom logs, records of notification to addresses or their designated mail custodians by any means of mail to be picked up, receipt pickup acknowledgement and United States Postal Service PS Forms 3811, Domestic Return Receipt for the certified packages. The certified packages are:

1. 7012 1640 0000 9665 4517, VADM Bono, DHA, delivery
2. 7012 1640 0000 9665 1073, Joe Davidge, WRNMMC, restricted delivery
3. 7012 1640 0000 9665 4500, Judy Bizzell, WRNMMC, restricted delivery
4. 7012 1640 0000 9665 1059, RADM Lane, WRNMMC
5. 7012 1640 0000 9665 1066, Joe Davidge, WRNMMC

6. 9590 9521 0615 0285 9647 05, WRNMMC FOIA/HIPAA/PA Office, Davidge/Bizzell, FOIA restricted delivery
7. 7015 0640 0007 9605 59377, WRNMMC FOIA/HIPAA/PA Office, Davidge/Bizzell, restricted delivery

-- Expedited Processing --

Not requested

-- Fees --

Willing to pay 75.00

Enclosure

Mailing Records for:
Package for Rear Admiral Lane, WRNMMC,
Certified Mail Number 7012 1640 0000 9665 1059

United States Postal Service®

Firm Delivery Receipt for

Accountable and Bulk Delivery Mail



5199 9990 0012 1129 0032

<input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD	<input type="checkbox"/> Delivery Confirmation™ <input type="checkbox"/> Service	<input type="checkbox"/> Express Mail® <input type="checkbox"/> Service	<input type="checkbox"/> Insured	<input type="checkbox"/> Recorded Delivery <input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Service	Mail for Bill Number (ADD-1) Line 401
Article Number	Code	Office of Origin (International)	Article Number	Code	Office of Origin (International)		
1. 1640 0009 0665 1059		VA 22190	11. 2/23/16				
2.			12.				
3.			13.				
4.			14.				
5.			15.				
6.			16.				
7.			17.				
8.			18.				
9.			19.				
10.			20.				

* CODE: DC = Received in Damaged Condition. R = Return Receipt Requested. RS = Returned to Sender.

Date of Delivery 3/7/16	Number of pieces described above 7	Postmark - Delivery Office 5600
Delivered By: (Clerk/Carrier) <i>[Signature]</i>	ERM sites: send Form 3849 to CFS	W/RM sites: file Form 3849 with Form 3883
Form 3849 Barcode Number <i>[Barcode]</i>	PAGE 622114	

PS Form 3863, February 2002

Follow proper scanning procedures for all articles.

Enclosure

Mailing Records for:
Package for Joe Davidge, FOIA/Privacy Office, WRNMMC,
Certified Mail Number 7012 1640 0000 9665 1073

ROBERT HAMMOND

(b) (6)

FOR RETURN TO POST OFFICE ONLY
OF THE RETURN ADDRESS, POSTAL INSURANCE

CERTIFIED MAILSM



7012 1640 0000 9665 1073

U.S. POSTAGE

PAID
VIENNA VA
22180
FEB 11, 16
AMOUNT

\$13.04

R2304E106959-24



20889



1000

**RESTRICTED
DELIVERY**

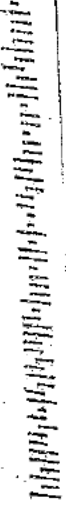
**RESTRICTED
DELIVERY**

Joe E. Davidge, FOIA/Privacy Office
Walter Reed National Military Medical Center
8901 Rockville Pike
Bethesda, MD 20889-5600

**RETURN RECEIPT
REQUESTED**

RESTRICTED

**RESTRICTED
DELIVERY**



DAVIDGE JOE

Walter Reed:
POST OFFICE

Sender:
VA 22180

PO Box/Bld:
PRVCY COM OFC CERT-494

03/29/16 12:09

1 of 1



032917120946

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AND DOTTED LINE

United States Postal Service®

Sorry We Missed You! We Re-Deliver for You

Item is at: <input type="checkbox"/> Post Office™ (See back)	Available for Pick-up: <i>DDU - 15</i> Date: <i>11/12</i>
<input type="checkbox"/> Letter	For Delivery: (Enter total number of items delivered by service type.)
<input checked="" type="checkbox"/> Large envelope, magazine, catalog, etc.	For Notice Left: (Check applicable item)
<input type="checkbox"/> Parcel	<input type="checkbox"/> Priority Mail Express™
<input type="checkbox"/> Perishable item	<input type="checkbox"/> Insured Mail
<input type="checkbox"/> Other:	<input type="checkbox"/> Return Receipt for Merchandise
	<input checked="" type="checkbox"/> Certified Mail™ (Must claim within 15 days or article will be returned)
	<input type="checkbox"/> Restricted Delivery
	<input type="checkbox"/> Registered Mail™
	Signature Confirmation™

Article Requiring Payment	Amount Due
<input type="checkbox"/> Postage Due <input type="checkbox"/> COD <input type="checkbox"/> Customs	\$
<input type="checkbox"/> Final Notice: Article will be returned to sender on	

Today's Date: _____ Sender's Name: **DAVIDGE JOE**

Walter Reed: **POST OFFICE**

Sender: **VA 22180**

PO Box: **ADMIN CERT-073 LM**

02/17/16 10:09 02 2016 1 of 1

021717100945

Notice Left Section

Customer Name and Address

Delivered By and Date

PS Form 3849, July 2013

usps.com

Delivery Notice/Reminder/Receipt

We will redeliver OR you or your agent can pick up your mail at the Post Office. (Bring this form and proper ID. If your agent will pick up, sign below in item 2, and enter agent's name here):

- Check all that apply in section 3;
 - Sign in section 2 below;
 - Leave this notice where the carrier can see it.
- Sign Here to authorize redelivery or to authorize an agent to sign for you:

70121640000096651073

www.usps.com/redelivery or 800-ASK-USPS (275-8777)

3. ☐ Redeliver (Enter day of week):

(Allow at least two delivery days for redelivery, or go to usps.com/redelivery or call 800-275-8777 to arrange redelivery.)

☐ Leave item at my address (not available if you or your agent must be present)

(Specify where to leave. Example: "porch", "side door". This option is not available if box is checked on the front requiring your signature at time of delivery.)

☐ Refused ☐ Forward ☐ Return

Signature	(b) (6)
Printed Name	
Delivery Address	

USPS



5293 0527 6847 5067

PS Form 3849, July 2013 (Reverse)

HP
HP

GRF
GRF

Enclosure

Mailing Records for:

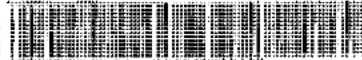
Package for Joe Davidge, FOIA/Privacy Office, WRNMMC,
USPS Signature Tracking Number 9593 7000 0085 6070 002 52

DAVIDGE JOE

Walter Reed
POST OFFICE

Sender:
VA 22180
PO Box 252
FOIA DIC-252 MCG
03/15/16 12:31

1 of 1



03/15/16 12:31

DAVIDGE JOE

Walter Reed
POST OFFICE

Sender:
VA 22180
PO Box 252
FOIA SC-252 MCG
03/20/16 13:42

1 of 1



03/20/16 13:42

RESTRICTED
DELIVERY

FOR

Joe E. Davidge, FOIA Privacy Officer
Walter Reed National Military Medical Center
4501 Rockville Pike
Bethesda, MD 20814-4600

(b) (6)

FRONT



Cushion Mailer
6" x 10"

160041 / 160041-01

UNITED STATES
POSTAL SERVICE®

F



U.S. POSTAGE
\$10.89
FCH PARCEL
22180 0005
Date of sale
03/10/16
06 2S00
08276834

USPS® FIRST-CLASS MAIL®

SIGN CONF RSTRDEL

0 lb. 3.20 oz.

0005

SHIP
TO: **JOE E. DAVIDGE, PRIVACY OFFICE**

Joe E. Davidge, FOIA/Privacy Office
Walter Reed National Military Medical Center
8901 Rockville Pike
Bethesda, MD 20889-5600

USPS SIGNATURE TRACKING NUMBER



9593 7000 0085 6070 0002 52

Product
A product of

Picked up by (b) (6)
3/31/16

United States Postal Service®

Sorry We Missed You! We **Re** Deliver for You

Item is at:

Post Office™ (See back)

☒ Post Office™ (See back)

Letter

☒ Large envelope, magazine, catalog, etc.

Parcel

Perishable item

Other:

For Delivery: (Enter total number of items delivered by service type.)

For Notice Left: (Check applicable item)

Priority Mail

Express™

Certified Mail™ (Must claim within 15 days or article will be returned)

Restricted Delivery

Registered Mail™

Available for Pick-up /

Date: **03/30/16**

Signature

Signature

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DAVIDGE JOE

Walter Reed:
POST OFFICE

Sender:
VA 22180

PO Box/Bid:

FOIA S/C-252 MCG

03/30/16 13:42

1 of 1



031517123138

Notice Left Section

Customer Name and Address

Article Requiring Payment

Postage Due

COD

Customs

Final Notice: Article will be returned to sender on

Amount Due

\$

Delivered By and Date

Signature

Signature

Signature

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PS Form 3849, July 2013

usps.com

Delivery Notice/Reminder/Receipt

We will redeliver OR you or your agent can pick up your mail at the Post Office. (Bring this form and proper ID. If your agent will pick up, sign below in item 2, and enter agent's name here):

1. a. Check all that apply in section 3;
b. Sign in section 2 below;
c. Leave this notice where the carrier can see it.

2. Sign Here to authorize redelivery or to authorize an agent to sign for you:

3. ☐ Redeliver (Enter day of week):

(Allow at least two delivery days for redelivery, or go to usps.com/redelivery or call 800-275-8777 to arrange redelivery.)

- ☐ Leave item at my address (not available if you or your agent must be present)

(Specify where to leave. Example: "porch", "side door". This option is not available if box is checked on the front requiring your signature at time of delivery.)

- ☐ Refused ☐ Forward ☐ Return

PS Form 3849, July 2013 (Reverse)

PS 3801

9593 7006 0035 6010 0002 52

www.usps.com/redelivery or 800-ASK-USPS (275-8777)

Delivery Section

Signature

X

Printed Name

Delivery Address

(b) (6)

PRIVACY/FOIA

USPS



5293 0527 6848 9286

HP
RP


Enclosure

Mailing Records for:
Package for Joe Davidge, FOIA/Privacy Office, WRNMMC,
USPS Signature Tracking Number 7012 3460 0001 5107 8494



(b) (6)
ROBERT HAMMOND

RESTRICTED
DELIVERY

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>1. Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>2. and address on the reverse</p> 		<p>A. Signature X</p> <p><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>J. E. Davidge, Privacy Compliance Officer Walter Reed National Military Medical Center Building 1, 2nd Floor, Room 2430 8901 Rockville Pike Bethesda, MD 20889-5600</p>		<p>B. Received by (Printed Name)</p>	<p>C. Date of Delivery</p>
<p>2. Article Number (Transfer from service label)</p> <p>7012 3460 0001 5107 8494</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>PS Form 3811, February 2004</p>		<p>Domestic Return Receipt</p> <p>102595-02-M-1540</p>	

RESTRICTED
DELIVERY

RESTRICTED
DELIVERY

RESTRICTED
DELIVERY

J. E. Davidge, Privacy Compliance Officer
Walter Reed National Military Medical Center
Building 1, 2nd Floor, Room 2430
8901 Rockville Pike
Bethesda, MD 20889-5600

RESTRICTED
DELIVERY

7012 3460 0001 5107 8494



U.S. POSTAGE
PAID
MERRIFIELD, VA
22116
MAR 23, 18
AMOUNT
\$14.80
00130123-07

PICKED UP BY
3/13/16
(b) (6)

United States Postal Service®

Sorry We Missed You! We Re-Deliver for You

Item is at:
 Post Office™ (See back)
 X Post Office
 Available for Pick-up At
OKVD-1376
 Date: MT

Letter
 Large envelope, magazine, catalog, etc.
 Parcel
 Perishable item
 Other:
 For Delivery: (Enter total number of items delivered by service type.)
 For Notice Left: (Check applicable item)
 Priority Mail
 Express
 Certified Mail™ (Must claim within 15 days or article will be returned)
 Restricted Delivery
 Registered Mail™
 Insured Mail
 Return Receipt for Merchandise
 Adult Signature
 Signature Confirmation™

Article Requiring Payment
☐ Postage Due ☐ COD ☐ Customs
 Amount Due \$

☐ Final Notice: Article will be returned to sender on

DAVIDGE JOE
 Walter Reed:
 POST OFFICE
 Sender:
 VA 22180
 PO Box/Bld:
 PRVCY COM OFC CERT-494
 03/29/16 12:09
 1 of 1
 Notice Left Section
 Customer Name and Address
 Delivered By and Date
 0889 MAR 30 2016

PS Form 3849, July 2013

usps.com

Delivery Notice/Reminder/Receipt

We will redeliver OR you or your agent can pick up your mail at the Post Office. (Bring this form and proper ID. If your agent will pick up, sign below in item 2, and enter agent's name here):

- Check all that apply in section 3;
 - Sign in section 2 below;
 - Leave this notice where the carrier can see it.

- Sign Here to authorize redelivery or to authorize an agent to sign for you:

- ☐ Redeliver (Enter day of week):

(Allow at least two delivery days for redelivery, or go to usps.com/redelivery or call 800-275-8777 to arrange redelivery.)

- ☐ Leave item at my address (not available if you or your agent must be present)

(Specify where to leave. Example: "porch", "side door". This option is not available if box is checked on the front requiring your signature at time of delivery.)

- ☐ Refused ☐ Forward ☐ Return

PS Form 3849, July 2013 (Reverse)

PS 3801 7012 3460 0001 51078494
 1012 1640000 9665 1677
 www.usps.com/redelivery or 800-ASK-USPS (275-8777)

Delivery Section

Signature
 X
 Printed Name
 (b) (6)
 Delivery Address
 PRIVACY / FOIA

USPS



5293 0527 6848 8296

Enclosure

Mailing Records for:
Package for Judy Bizzell, FOIA Office, WRNMMC,
Certified Mail Number 7015 0640 0007 9605 9377

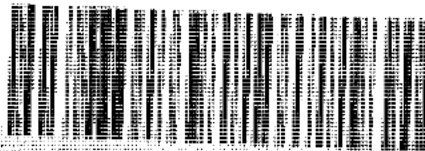
FROM



ROBERT H. MURPHY, JR.

(b) (6)

2025 0640 0007 9605 9377

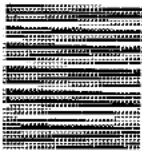


RESTRICTED
DELIVERY

on Mailer



1000



2000

U.S. POSTAGE
PAID
NEWINGTON, VA
02245-0001
JONES

\$12.74

POSTAGE WILL BE PAID BY ADDRESSEE

RESTRICTED
DELIVERY

TO:

Mrs. Judy Blumel, PHA Officer
in Charge East National Military Medical Center
5901 Rockville Pike
Bethesda, MD 20882-4500


RETURN RECEIPT REQUESTED



NOV 19 1993

BIZZELL JUDY
 Delivery Point:
POST OFFICE
 Service:
 VA 22180
 PO Box 377
FOIA CERT-377 MCG
03/15/16 12:15 1 of 1

 03/15/16 12:15


BIZZELL JUDY
 Mailer Name:
POST OFFICE
 Service:
 VA 22180
 PO Box 377
FOIA CERT-377 MCG
03/30/16 13:43 1 of 1

 03/30/16 13:43

USPS.com

PULL TAB TO OPEN

Stamps
Cushion Mailer

VERIFICATION
 Delivery Point: VA 22180
 PO Box 377
FOIA CERT-377 MCG
03/30/16 13:43

03/30/16 13:43


9000000000
Cushion Mailer
5-3147 x 8-3147 (maximum weight 100g)

United States Postal Service
First-Class Bulk Mail
Postage and Fees Paid
03/30/16 13:43

UNITED STATES
POSTAL SERVICE


Handwritten: **FOIA CERT-377 MCG**

(b) (6)

United States Postal Service®

Sorry We Missed You! We **Re** Deliver for You

Item is at:

☐ Post Office™ (See back)

☒ Retail Ops

Available for Pick-up:

8-1530

Date: M-F

☐ Letter

☒ Large

envelope,

magazine,

catalog, etc.

☐ Parcel

☐ Perishable

Item

☐ Other:

For Delivery: (Enter total number of items delivered by service type.)

For Notice Left: (Check applicable item)

☐ Priority Mail

☐ Express™

☒ Certified Mail™

(Must claim within 15 days

or article will be returned)

☐ Restricted Delivery

☐ Registered Mail™

☐ Insured Mail

☐ Return Receipt

for Merchandise

☐ Adult

Signature

☐ Signature

Confirmation™

Article Requiring Payment

☐ Postage

Due

☐ COD

☐ Customs

Amount Due

\$

☐ Final Notice: Article will be returned to sender on

Delivered By and Date

PS Form 3849, July 2013

usps.com

Delivery Notice/Reminder/Receipt

BIZZELL JUDY

Walter Reed:

POST OFFICE

Sender:

VA 22180

PO Box/Bld:

FOIA CERT-377 MCG

03/15/16 12:15

1 of 1



031517121515

Notice Left Section:

Customer Name and Address

We will redeliver OR you or your agent can pick up your mail at the Post Office. (Bring this form and proper ID. If your agent will pick up, sign below in item 2, and enter agent's name here):

1. a. Check all that apply in section 3;
b. Sign in section 2 below;
c. Leave this notice where the carrier can see it.

2. Sign Here to authorize redelivery or to authorize an agent to sign for you:

www.usps.com/redelivery or 800-ASK-USPS (275-8777)

3. ☐ Redeliver (Enter day of week):

(Allow at least two delivery days for redelivery, or go to usps.com/redelivery or call 800-275-8777 to arrange redelivery.)

☐ Leave item at my address (not available if you or your agent must be present)

(Specify where to leave. Example: "porch", "side door". This option is not available if box is checked on the front requiring your signature at time of delivery.)

☐ Refused ☐ Forward ☐ Return

Signature

X

Printed Name

Delivery Address

(b) (6)

PRIVACY/FOIA

USPS



PS Form 3849, July 2013 (Reverse)

5293 0527 6849 4877

Enclosure

Mailing Records for:
Package for Judy Bizzell, FOIA Office, WRNMMC,
Certified Mail Number 7012 1640 0000 9665 4500

(b) (6)

3/13/16

Picked up by

RESTRICTED
DELIVERY

RESTRICTED
DELIVERY

RETURN RECEIPT
REQUESTED

Ms. Judy Bizzell, FOIA Office
Walter Reed National Military Medical Center
8901 Rockville Pike
Bethesda, MD 20889-5600

U.S. POSTAGE
PAID
VIENNA, VA
22180
FEB 11 16
AMOUNT
\$13.04
R2304E106958-24



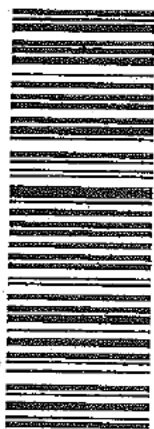
20889



1000

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL



7012 1640 0000 9665 4500

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1 Article Addressed to:

Ms. Judy Bizzell, FOIA Office
Walter Reed National Military Medical Center
8901 Rockville Pike
Bethesda, MD 20889-5600



COMPLETE THIS SECTION ON DELIVERY

- A. Signature ☐ Agent ☒ Addressee
- X
- B. Received by (Printed Name) C. Date of Delivery
- D. Is delivery address different from item 1? ☐ Yes ☒ No
If YES, enter delivery address below:

3. Service Type
- ☒ Certified Mail ☐ Express Mail
- ☐ Registered ☐ Return Receipt for Merchandise
- ☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☒ Yes

(b) (6)

Walter Reed:
POST OFFICE

Sender:
VA 22180
PO Box/Bld: *cert*
ADMIN ~~DC~~-500 LM
02/17/16 10:13

1 of 1



021717101311

VA 22180
PO Box/Bld:
ADMIN CERT-500 LM
03/30/16 13:43

1 of 1



021717101311



United States Postal Service®

Sorry We Missed You! We **Re** Deliver for You

Item is at: <input type="checkbox"/> Post Office™ (See back) Post Office	Available for Pick-up / Date: 7/10/16
<input type="checkbox"/> Letter <input checked="" type="checkbox"/> Large envelope, magazine, catalog, etc. <input type="checkbox"/> Parcel <input type="checkbox"/> Perishable Item <input type="checkbox"/> Other:	For Delivery: (Enter total number of items delivered by service type.) For Notice Left: (Check applicable item) <input type="checkbox"/> Priority Mail Express™ <input checked="" type="checkbox"/> Certified Mail™ (Must claim within 15 days or article will be returned) <input type="checkbox"/> Restricted Delivery <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Insured Mail <input type="checkbox"/> Return Receipt for Merchandise <input checked="" type="checkbox"/> Adult Signature <input type="checkbox"/> Signature Confirmation™

Article Requiring Payment	Amount Due
<input type="checkbox"/> Postage Due <input type="checkbox"/> COD <input type="checkbox"/> Customs	\$
<input type="checkbox"/> Final Notice: Article will be returned to sender on	

BIZZELL JUDY
 Walter Reed:
 POST OFFICE

Send **EMAILED**
 VA 22180
 PO Box/Bldg: **6847**
 ADMIN DC-500 LMOU
 02/17/16 10:13 **1 of 1**

021717101311

Notice Left Section
 Customer Name and Address
EMAILED

MAR 30 2016
 Delivered By and Date **CPK**

PS Form 3849, July 2013 **USPS.com** Delivery Notice/Reminder/Receipt

We will redeliver OR you or your agent can pick up your mail at the Post Office. (Bring this form and proper ID. If your agent will pick up, sign below in item 2, and enter agent's name here):

1. a. Check all that apply in section 3;
 b. Sign in section 2 below;
 c. Leave this notice where the carrier can see it.

2. Sign Here to authorize redelivery or to authorize an agent to sign for you:

3. ☒ Redeliver (Enter day of week):

(Allow at least two delivery days for redelivery, or go to usps.com/redelivery or call 800-275-8777 to arrange redelivery.)

☐ Leave item at my address (not available if you or your agent must be present)

(Specify where to leave. Example: "porch," "side door". This option is not available if box is checked on the front requiring your signature at time of delivery.)

☐ Refused ☐ Forward ☐ Return

PS 3849 7012 1640 00009665 4500

www.usps.com/redelivery or 800-ASK-USPS (275-8777)

Delivery Section

Signature **X**

Printed Name **(b) (6)**

Delivery Address **PRIVACY / FOIA**

USPS

5293 0527 6847 5036

PS Form 3849, July 2013 (Reverse)

More Stuff. RE: NARA Complaint ICO Walter Reed Destruction of Records. FOIA RE Certified Packages

(b) (6) via Unauthorized Disposition UnauthorizedDisposition@nara.gov Mon, Feb 1, 2021 at 11:45 AM
Reply-To: (b) (6)
To: UnauthorizedDisposition@nara.gov, Andrea Riley <andrea.riley@nara.gov>, GRS_Team <GRS_Team@nara.gov>
Cc: (b) (6)

(Best Viewed in HTML)

In furtherance to emails below, this correspondence provides you additional records documenting Walter Reed's Mailroom procedures; lack of any records schedule for disposition of certified mail records after two years and one month, further evidence of intent to destroy records, and potential further involvement of Agency Counsel Paul Cygnarowicz in unauthorized disposition and potential cover up of same. Additionally, I am providing you additional information on my emails regarding notices to Walter Reed's Bizzell, (b) (6) Gulley and Davidge to preserve records.

MAILROOM RECORDS/PROCEDURES

While mailroom records are only a small subset of records that are alleged to have been destroyed, there are some important points.

1. I sought Walter Reed's Mailroom procedures via FOIA on **July 27, 2014**. Three years later, on April 27, 2017, I appealed to DHA's Cygnarowicz that Walter Reed had not answered my three year old FOIA request (and in violation of law, had not reported it open in their FOIA reports to the Attorney General). Two months AFTER I appealed, Bizzell released minimal record on June 20, 2017 and Cygnarowicz then improperly (dishonestly, in my view) closed my appeal on July 27, 2017, even though my April 27, 2017 appeal was correct – Walter Reed had not responded. See attached, AP436F~1, DHA to WRNMMC Mailroom procedures 8.29.2018.
2. Nevertheless the records provided by Bizzell on June 20, 2017 and are only **DRAFT**, unsigned Standard Operating Procedure that (according to file metadata "properties") were drafted in **September 2016**. See attached email "RE: FOIA's Received."
3. Nevertheless, those **DRAFT**, unsigned Standard Operating Procedures provide you additional insight into the records that Walter Reed creates upon receiving registered mail and every single one of those records must be produced to NARA in order to verify that they have not been destroyed.

The bottom line is that: 1) Walter Reed did not have any documented records schedule for disposing of certified/registered mail, 2) Walter Reed sat on my simple FOIA request seeking procedures for three years, and 3) Walter Reed and DHA evidently did so while knowingly allowing records to be destroyed. Gulley states that she destroyed paper mailroom records two years and one month after action, which would be after litigation commenced in 2016.

PRESERVATION NOTICES

Similarly, I want to provide you additional information on my email notices to Walter Reed's Bizzell, (b) (6) Gulley and Davidge to preserve records, beyond what was already stated in my FOIA request

itself, to assist you in having the Agency locate its official record copies to ascertain whether they were destroyed and to affirm the notices..

From: (b) (6)

Sent: Sunday, May 10, 2015 10:09 PM

From: (b) (6)

Sent: Sunday, April 5, 2015 7:03 AM

From: (b) (6)

Sent: Sunday, February 15, 2015 7:23 AM

CONCLUDING REMARKS

My dealings with Walter Reed and DHA in this matter and others over several years has led me to question the integrity of certain individuals, such that I believe that any destruction of records may have been as a result of malign intent. The body of records provided to you thus far support that conclusion rather than human error, in my view. Pls consider this in your findings.

With my respect,

Robert Hammond

Whistleblower

From: (b) (6)

Sent: Wednesday, January 27, 2021 6:11 AM

To: 'UnauthorizedDisposition@nara.gov' <UnauthorizedDisposition@nara.gov>; 'Andrea Riley' <andrea.riley@nara.gov>; 'GRS Team' <GRS_Team@nara.gov>

Cc: (b) (6)

Subject: FW: NARA Complaint ICO Walter Reed Destruction of Records. FOIA RE Certified Packages

(Best Viewed in HTML)

In furtherance to emails below:

Suffice it to say that records include:

- the records relied upon by Ms. Meki Gulley in her February 21, 2014 conversation with (b) (6) USPS, in which she stated that, "the Certify with label # 70121640000096654524 was picked up on February 12, 2012 by (b) (6). The Certify with label # 70121640000096651035 was picked up on December 17, 2013 by (b) (6)." Compl Ex. 18, at 11.

Thank you for your integrity and your diligence as you move forward with your investigation.

With my respect,

Robert Hammond

Whistleblower

From: (b) (6)
Sent: Saturday, January 16, 2021 9:59 PM
To: 'UnauthorizedDisposition@nara.gov' <UnauthorizedDisposition@nara.gov>; 'Andrea Riley' <andrea.riley@nara.gov>; 'GRS Team' <GRS_Team@nara.gov>
Cc: (b) (6)
Subject: RE: NARA Complaint ICO Walter Reed DeSTRUCTION of Record FOIA RE Certified Package

Best Viewed in HTML. Also see attachments. Pls have case manager for this complaint contact me to arrange a phone call.

In furtherance to email of January 16, 2021 3:52 PM below:

1. Please notify the Agency by phone within 5 days. Actual, impending, or threatened damage, alienation, or unauthorized destruction of record
2. Please see attached Corrected complaint more succinctly stating the allegation for NARA to summarize in your contact with the Agency.
3. Please accurately state my allegation. If you omit the names and positions, it might read:

We have received an allegation that, despite numerous notices to preserve records, Walter Reed National Military Medical Center, named individuals and others, destroyed records in anticipation of and during litigation and that further records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction for an April 26, 2014 FOIA request with the Requester Number FOIA WRNMC #14-1 seeking records related to certified mail tracking numbers 7012 1640000096651035 and 70121640000096654524 and the August 16, 2014 FOIA Appeal thereof. Records include those records that would indicate what actions, if any, Defendants, (including named individuals) took upon being notified of a potential Privacy breach in being unable to locate the two certified packages to one of which contained the Original 2012 DVD of a patient's medical records and the other contained sensitive documents. *See* District of Columbia Civil Action No. 16-421-KBJ, Dkt. No. 1, Complaint Ex. 18, at 3, 4, 6, 7 4 and 19 – 44 (attached).

Additionally, records of notices to preserve records, the forwarding of those notices and any actions taken in response to them, and numerous records of Walter Reed's FOIA Officer's actions/searches/contacts with others cited with exact dates in her declarations three years later during litigation, are alleged to have been destroyed or are in imminent danger of being destroyed. No one could recall such exact dates of actions/searches/contacts three years later during litigation without records, yet when sought during litigation in response to those declarations, records are missing.

From: (b) (6)
Sent: Saturday, January 16, 2021 3:52 PM
To: UnauthorizedDisposition@nara.gov; 'Andrea Riley' <andrea.riley@nara.gov>; 'GRS_Team' <GRS_Team@nara.gov>
Cc: (b) (6)
Subject: NARA Complaint ICO Walter Reed Destruction of Records. FOIA RE Certified Packages
Importance: High

Best Viewed in HTML. Also see attachments. Pls have case manager for this complaint contact me to arrange a phone call.

Actual, impending, or threatened damage, alienation, or unauthorized destruction of records.

January 16, 2020

NARA Complaint ICO Walter Reed Destruction of Records. FOIA RE Certified Packages

I. ALLEGATION.

I am alleging that, despite numerous notices to preserve records, Walter Reed National Military Medical Center, named individuals: FOIA Officer Judy, J. Bizzell, Privacy Officer, Joseph E. Davidge, former

Commander Brigadier General Clark, Mail Room Supervisor Meki Gulley, FOIA Office mail orderly, (b) (6) and others, destroyed records in anticipation of and during litigation and that further records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction for my April 26, 2014 FOIA request with my Requester Number FOIA WRNMC #14-1 seeking records related to certified mail tracking numbers 7012 1640000096651035 and 70121640000096654524 and my August 16, 2014 FOIA Appeal thereof. My Request seeks records that would indicate what actions, if any, Defendants, (including Walter Reed's Director, Brigadier General Clark and Walter Reed's Privacy Compliance Administrator, Joseph E. Davidge) took upon being notified of a potential Privacy breach in being unable to locate the two certified packages to one of which contained the Original 2012 DVD of my medical records and the other contained sensitive documents. *See* District of Columbia Civil Action No. 16-421-KBJ, Dkt. No. 1, Complaint Ex. 18, at 3, 4, 6, 7 4 and 19 – 44 (attached).

Additional records cited by Walter Reed's FOIA Officer in her declarations (Bizzell Decl.) related to specific dates where she acted three years prior to her declarations (as enumerated in Dkt. No. 30, Plaintiff's List of Outstanding Records, Paragraph H) have either already been destroyed or are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction as Bizzell now states that such records do not exist, including:

- Contemporaneous notes, memos or any other records related to Ms. Bizzell's discussions [communications] with Ms. Gully and (b) (6) concerning the above certified mail tracking numbers, which took place on or about May 22, 2014; May 26, 2014; June 12, 2014; June 24, 2014; July 15, 2014; August 12, 2014; August 21, 2014; February 18, 2015; April 7, 2015; May 11, 2015; and November 6, 2015. [*See* ECF 18-1, Second Bizzell Decl., ¶¶ 29-33 dated **February 28, 2017**]
- Contemporaneous notes, memos or any other records related to the search of the USPS tracking website that Ms. Bizzell alleges she performed on May 30, 2014. *See* ECF 18-1 ¶ 23. [dated **February 28, 2017**]
- Records relied upon by Ms. Gulley on May 22, 2017, in acknowledging receipt of certified package 7012 1640 0000 9665 4524. *See* ECF 25-2 ¶32. [Third Bizzell Decl.]

Additionally, records of my February 15, 2015, April 5, 2015 and May 10, 2015 notices Walter Reed's FOIA Officer and others to preserve records for judicial review, including any forwarding or action taken as a result of them have either already been destroyed or are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction,

Walter Reed and Defense Health Agency legal staff, including Agency Counsel Paul Thomas Cygnarowicz, MD Bar 12- 9212150146, allegedly have participated in, are participating in, or believed to be participating in any such unlawful action, in part by falsely claiming in court documents that Walter Reed is not required to retain records subject to FOIA, and as officers of the Court are required to have reported such unlawful destruction of records of which they have knowledge, including destruction of records during litigation. There is no attorney/client shield for participating in unlawful acts, if true, in my view.

The Agency's citations during litigation to not being required to retain records sought under FOIA and to deleting them under their records schedules indicates that they are actively deleting records that are subject to FOIA retention irrespective of the otherwise normal retention schedule. Further records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction. See Attachment A. "Actual and Imminent Destruction of Mail Room & Other Records."

This alleged and apparently admitted destruction occurred and may be ongoing despite numerous notices to preserve records. Mail Room Supervisor Meki Gully states that hard copy mail records responsive to this FOIA request were destroyed/shredded not only after they were sought via FOIA but after litigation commenced on March 2, 2016.

-

II. IDENTIFICATION OF RECORDS.

I am seeking that in response to this NARA complaint, IAW 36 CFR 1230.16, Walter Reed account for (and produce if not destroyed) each of the specific records below sought in my FOIA request and appeal, which were known to exist at the time of my Request and Appeal and litigation.

Information Requested via FOIA. In my FOIA request, I am requesting all records from November 26, 2013 to present relating to certified mail tracking number 7012 1640 0000 9665 1035 (mailed on November 26, 2013) and certified mail tracking number 7012 1640 0000 9665 4524 (mailed on January 27, 2014). Information requested includes, but **is not limited to:**

- *Emails regarding package/mail delivery/pick-up, or anything related to the specific certified packages above between any of the following parties: Judy Bizzell, Joe. E. Davidge, Ms. Gully (Mail Services), (b) (6) (purported mail orderly for FOIA Office), Brigadier General Clark, (b) (6) any member of the command staff or any other party.*
- *Any material related to inquiry conducted in connection with these packages that may have been initiated by Brigadier General Clark or others;*
- *Letters or other correspondence including those sent to Brigadier General Clark;*
- *Records of phone logs for the telephones assigned to the above personnel and 301-670-6049, 301-295-4611, 301-295-4000, 301-295-0162.*

See Dkt. No. 1, Complaint Ex. 18, at 2.

Plaintiff further delineates such records in his appeal where such records may be located, stating:

Specific Information Known by WRNMMC to Exist.

1. Mail Room Records. The WRNMMC Mail Room is required to (and does) maintain records of certified mail received from USPS. The mail room notifies the parties to whom the mail is addressed and/or their designated mail orderly to pick up mail. This notification is done by email. The mail room obtains signatures from personnel who pick up certified mail and maintains logs. The mail room returns USPS form PS Form 3811 Domestic Return Receipt forms and maintains appropriate records. These are agency records subject to FOIA. Attachment C clearly demonstrates that the mail room received both packages. According to statements made by (b) (6), USPS Consumer and Industry Contact Northern Virginia District (b) (6) and Ms. Gully (WRNMMC Mail Services), both packages were picked up by (b) (6) (purportedly the mail orderly for the WRNMMC FOIA/PA Office). WRNMMC FOIA/PA Office did not conduct a search for mail room records.

2. WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office Records. Both packages were addressed to Ms. Bizzell in the FOIA Office, who states that she did not receive them (see Attachment

E). For the FOIA Officer to suggest that the packages were not received in that office can only mean that my medical records are missing or have been compromised and that appropriate Privacy Act breach reporting is required. WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office did not conduct a search of the HIPAA/Privacy Act/FOIA/Civil Liberties Office for records related to the packages, including the DVD containing my PHI/PII and other contents of the packages containing my PHI/PII.

3. Records of Letters or Other Correspondence Including Those Sent to Brigadier General Clark. Please see the fax cover page images at Attachment D showing some letters that were sent to the Office of Brigadier General Clark. Please also see the USPS Form 3811, Certified Mail Receipt, for correspondence relevant to this FOIA request and the potential loss or compromise of my medical records referenced above. Upon receipt, these became agency records in WRNMMC possession that are clearly subject to FOIA. I am seeking the “Received Fax” agency records and received correspondence agency record. Moreover, WRNMMC is required to (and does) log in, file under appropriate record retention schedule and assign action to every correspondence addressed to the Commander. Such records are official agency records and required by law to be maintained. Moreover, there are records related to the assignment by the Command staff for action to be completed by WRNMMC action officer and record of completed action. This would be done by email or route sheet with a cover page. WRNMMC FOIA Office did not search for these agency records, bring them into the FOIA case file and provide them in response to my FOIA request.

4. Records of Phone Logs. Attachment C clearly shows that phone calls between the referenced numbers were made. WRNMMC FOIA Office did not conduct a search for phone records (likely provided by DISA).

5. Inquiry Initiated by Brigadier General Clark or His Staff. Please refer to Attachment D. To suggest that no inquiry or action of any kind was initiated by WRNMMC for this important HIPAA/Privacy Act issue is troubling and improbable. WRNMMC FOIA Office did not conduct a reasonable search for these records in the Office of the Commander, the legal office, PA Office, etc.

6. Records of Emails. Agency email records clearly exist, including emails that I sent to Ms. Bizzell and any forwarding of those emails. Please see Attachment E. Moreover, emails may exist related to other actions taken by Ms. Bizzell or personnel in the PA Office. These are agency records that must be maintained. To suggest that I may have some records that were not provided incident to my FOIA request is nonresponsive. I am seeking copies of the agency records that were brought under agency record retention schedules. WRNMMC must locate all such emails, maintain them in their FOIA case file and provide copies to me in response to my FOIA request. Any emails that have been deleted by the respective parties should be retrieved from WRNMMC backup email servers.

7. Records of Contact with the Defense Health Agency HIPAA/Privacy Act/FOIA/Civil Liberties Office.

8. A Dated, Serialized and Signed Copy of the WRNMMC Letter at Attachment B.

See Dkt. No. 1, Complaint Ex. 18, at 3, 4.

As to certified mail records, Defendants maintain extensive electronic records. Walter Reed: (1) maintains PS Form 3883, Firm Delivery Receipt for Accountable and Bulk Delivery Mail upon receiving package from USPS, identifying the article number, article number and delivery “mail for,” which is signed and dated by the Mail Services person receiving the packages; (2) scans each certified mail package, including the signature of the Walter Reed employee when the employee picks up the package; (3) adds an internal bar-coded label to the certified package with the name of the person to receive the mail and the office for tracking in an internal mail delivery system; (4) maintains USPS Form 3849 Delivery Notice/Reminder/Receipt, which records the signature of the person picking up the package, and; (5) maintains emails to and from the Mail Services Manager, Ms. Meki Gulley. See Dkt. No. 22-2, Hammond Decla. ¶¶ 64, 65; Dkt. No. 24-8, Ex. B-7; Dkt. No. 22-3 ¶¶ 197, 198.

The above records may have been destroyed or are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction, as Bizzell/Gulley claim that they do not exist.

III. SUPPORTING RECORDS

-

The attached supporting document “Destruction of Records” documents the incontrovertible existence of records at the time of my FOIA request and appeal, numerous specific notices to Walter Reed to preserve them for judicial review, Walter Reed acknowledgements of such preservation notices, Walter Reed statements that they are not required to preserve records and a statement by Mail Room Supervisor Meki Gulley that PAPER records were destroyed AFTER the start of litigation on March 2, 2016. Citations therein are to Case 1:16-cv-00421-KBJ documents available at Pacer.gov.

16-421-KBJ, Dkt. No. 1, Complaint Ex. 18 is attached.

IV. APPLICABLE RETENTION SCHEDULE, NARA GRS 4.2 Item 20

020	Access and disclosure request files. Case files created in response to requests for information under the Freedom of Information Act (FOIA), Mandatory Declassification Review (MDR) process, Privacy Act (PA), Classification Challenge, and similar access programs, and completed by: <ul style="list-style-type: none">• granting the request in full• granting the request in part• denying the request for any reason including:<ul style="list-style-type: none">o inability to fulfill request because records do not existo inability to fulfill request because request inadequately describes recordso inability to fulfill request because search or reproduction fees are not paid	Temporary. Destroy 6 years after final agency action or 3 years after final adjudication by the courts, whichever is later, but longer retention is authorized if required for business use.	DAA-GRS-2016-00020001
-----	--	---	-----------------------

V. 36 CFR § 1230.3

Unlawful or accidental destruction (also called unauthorized destruction) means disposal of an unscheduled or permanent record; disposal prior to the end of the [NARA](#)-approved retention period of a temporary record (other than court-ordered disposal under [§ 1226.14\(d\)](#) of this subchapter); and disposal of a record subject to a **FOIA request**, litigation hold, or any other hold requirement to retain the records.

VI. 44 U.S. CODE § 3106 - UNLAWFUL REMOVAL, DESTRUCTION OF RECORDS

(a)FEDERAL AGENCY NOTIFICATION.—

The head of each Federal agency shall notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, corruption, deletion, erasure, or other destruction of records in the custody of the agency, and with the assistance of the Archivist shall initiate action through the Attorney General for the recovery of records the head of the Federal agency knows or has reason to believe have been unlawfully removed from that agency, or from another Federal agency whose records have been transferred to the legal custody of that Federal agency

(b)ARCHIVIST NOTIFICATION.—

In any case in which the head of a Federal agency does not initiate an action for such recovery or other redress within a reasonable period of time after being notified of any such unlawful action described in

subsection (a), or is participating in, or believed to be participating in any such unlawful action, the Archivist shall request the Attorney General to initiate such an action, and shall notify the Congress when such a request has been made.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1298; Pub. L. 98-497, title I, § 107(b)(21), title II, § 203(b), Oct. 19, 1984, 98 Stat. 2290, 2294; Pub. L. 113-187, § 4, Nov. 26, 2014, 128 Stat. 2009.)

I would like to speak with the case manager handling this complaint, which may be LAURENCE BREWER Chief Records Officer for the U.S. Government or a subordinate. Please email me with contact information and an available time.

This is submitted upon information, belief and records available to me.

With my respect,

/s/

Robert Hammond

January 16, 2020

Whistleblower

Attachments:

- A. Actual and Imminent Destruction of Mail Room & Other Records
- B. Case 16-421-KBJ, Dkt. No. 1, Complaint Ex. 18
- C. Meki Gulley Admitted Destruction, Shredding of Mail Records During Litigation
- D. Ex. B-4_ USPS_ (b) (6) Signed Contemporaneous Notes

----- Forwarded message -----

From: "Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)" <judy.j.bizzell.civ@mail.mil>

To: (b) (6)

Cc: "Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)" <judy.j.bizzell.civ@mail.mil>

Bcc:

Date: Tue, 20 Jun 2017 17:08:48 -0500

Subject: RE: FOIA's Received

Mr. Robert Hammond

(b) (6)

SUBJECT: Freedom of Information Act Requests

Dear Mr. Hammond:

This responds to your request for information under the Freedom of Information Act. In this particular request you seek "...WRNMMC mail room

Standard Operating Procedures, desk guides or any other documentation related to package, mail, or certified mail delivery/receipt from USPS and subsequent pick up by WRNMMC from the WRNMMC mail room".

This request is assigned case number 17-02 (your case number 14-AA). Please refer to our case number, 17-02, when inquiring about this matter.

Attached, are documents this office received that are responsive to your request. All documents are released to you in full.

There is no charge for this information.

If you have questions, please contact me via return email.

Sincerely,

Judy J. Bizzell
Freedom of Information Act Officer
Walter Reed National Military Medical Center

-----Original Message-----

From: Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)
Sent: Tuesday, October 11, 2016 6:39 PM
To: (b) (6)
Cc: Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)
Subject: FOIA's Received

Mr. Robert Hammond

(b) (6)

SUBJECT: Freedom of Information Act Requests

Dear Mr. Hammond:

The following Freedom of information Act requests have been received in this Office: Your 2016-E; 16-D; 16-A; 16-C; 16-B; 15-C; 15-B; 14-AF; 14-AE; 14-AD; 14-X; 14-AC; 14-AB and 14-AA.

Due to the sheer volume of requests received, along with other requests, they have not been reviewed in full at this time. Each request is being reviewed and you will receive a tracking numbers (if applicable) no later than 21 October 2016.

If you have questions please respond to this email or call (301) 400-2315.

Sincerely,

Judy J. Bizzell
Freedom of Information Act Officer
Walter Reed National Military Medical Center
8901 Wisconsin Ave
Bethesda, MD 20889

9 attachments



First Class Letter mail SOP.DOCX
26K



PersonalOfficial Mail SOP.DOCX
23K



Registered mail.docx
27K



Second Notices SOP.DOCX
20K



SOP Customer Support.docx
23K



smime.p7s
6K



RE: FOIA's Received.eml
172K



DHA to WRNMMC Mailroom procedures 8.29.2018.pdf
518K



AP436F~1.pdf
1572K



**DEFENSE HEALTH AGENCY
NATIONAL CAPITAL REGION MEDICAL DIRECTORATE**
8955 WOOD ROAD, BUILDING 1, FLOOR 9
BETHESDA, MARYLAND 20889-5628

AUG 29 2018

Mr. Robert Hammond

(b) (6)

Re: Freedom of Information Act (FOIA) Appeal WRNMMC #17-02

Dear Mr. Hammond:

I am responding on behalf of the Defense Health Agency (DHA) as the FOIA appellate authority. This replies to your appeal dated April 26, 2017.

In a request dated July 27, 2014, pursuant to the FOIA, you requested Walter Reed National Military Medical Center (WRNMMC) provide "all WRNMMC mail room Standard Operating Procedures, desk guides or any other documentation related to package, mail, or certified mail delivery/receipt from USPS and subsequent pick up by WRNMMC from the WRNMMC mail room." On appeal, you claim WRNMMC did not issue a final determination in response to your FOIA request.

In an email dated June 20, 2017, the WRNMMC FOIA Office responded and released twelve pages responsive to your request. For your convenience, a copy of the response and documents are enclosed with this response. There are no additional records. Regarding your complaints of incorrect annual FOIA reporting, the DHA will provide a list of corrections to the DOD chain of command contemporaneous with filing the annual FY18 FOIA report.

You have a right to seek review pursuant to 5 U.S.C. § 552(a)(4)(B) in a United States District Court.

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. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS in any of the following ways:

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

If you have any questions, please contact Ms. Nadine Brown, FOIA Manager, Freedom of Information Service Center at (703) 275-6009.

Sincerely,

A handwritten signature in cursive script, reading "Paul T. Cygnarowicz".

Paul T. Cygnarowicz
Deputy General Counsel
Defense Health Agency

Enclosure:
As stated

+ RE: NARA Complaint ICO Walter Reed Destruction of Records. FOIA RE Certified Packages

per everance2013 via Unauthorized Disposition UnauthorizedDisposition@nara.gov Tue, Feb 2, 2021 at 11:02 AM
Reply-To: (b) (6)
To: UnauthorizedDisposition@nara.gov, Andrea Riley <andrea.riley@nara.gov>, GRS_Team <GRS_Team@nara.gov>
Cc: (b) (6)

(Best Viewed in HTML)

NARA Team,

With my deep respect ...

Thank you for your integrity and your perseverance. Seeking pure truth at no financial gain has been a long, challenging, and costly struggle for me (e.g., (b) (6)).

I should let you alone to establish the facts of this case. However, on the issue of mailroom records, I want to provide you a short chronology and a couple of records documenting what I believe to be dishonesty, misstatements about my broad notices to preserve records, participation in destruction of records, and potential cover-up of same.

I am concerned that DHA and Walter Reed records managers and NARA may be misled, given how much Walter Reed and DHA have at stake, their past actions, and involvement of an extensive legal staff (with some questionable actions).

1. Bizzell and Accused Parties position is (unfathomably) that, "No responsive records were located because WRNMMC never received the packages [Hammond] allegedly sent to WRNMMC."
2. On February 21, 2014, Walter Reed's Mail Services Manager, Gulley confirmed to (b) (6), of the United States Postal Service (USPS) that the certified package with label #7012 1640 0000 9665 1035 containing an Original 2012 DVD of my medical records "was picked up on December 17, 2013 by (b) (6)" and that (b) (6) picked up the certified package 7012 1640 0000 9665 4524 on February 12, [2014], stating further, (b) (6) is the mail orderly for the FOIA Officer Judy Bizzell." Ms. (b) (6), USPS Consumer and Industry Contact Northern Virginia District, confirmed this conversation in an email on that same day at 2/21/2014 at 4:11:47 P.M. Eastern Standard Time and provided an image of certified package 1035, which is conspicuously stamped "Restricted Delivery" four times on the front of the package. See Dkt. No.1, Complaint Ex. 18, at 11, 21). (Note, DHA/Walter Reed have had Ms. Smith's email since my administrative appeal to Cygnarowicz on

August 16, 2014 and yet persisted in claiming that neither package was received *See Attachment to this email*).

- 3 Following Bizzell's continued denial in stating that Walter Reed had not received the certified packages, (b) (6), USPS, provided me her contemporaneous notes of that conversation, which I entered into evidence on 04/18/2017 *See Dkt No 24 5, Ex B 4, USPS, (b) (6) Signed Contemporaneous Notes*. (Note further, Walter Reed and DHA would have no way of knowing that (b) (6) had preserved those contemporaneous records at my request *See Attachment to this email*)
4. Also on 04/18/2017, I entered into evidence a record documenting that (b) (6) who is Bizzell's mail orderly, signed the PS FORM 3811 Domestic Return Receipt card that was physically affixed to certified package 7012 1640 0000 9665 4524 on 2/07/2014 and returned that Domestic Return Receipt card to me by mail (via Walter Reed's mailroom) on March 6, 2014 *See Ex Dkt No 24 4, Ex B 3 (signed the PS FORM 38)*. (Note further, Walter Reed and DHA apparently did not realize that I had the PS FORM 3811 Domestic Return Receipt card, which was belatedly returned to me only after my multiple letters to Walter Reed's Commander. Note further, I cited the Agency copies of my letters in my NARA complaint, along with records of actions resulting from them, which are responsive records enumerated in my subject FOIA request and appeal.)
- 5 Also on 04/18/2017, I produced an email from Teri Smith, USPS, of August 10, 2016 in which Gulley (for the first time) claims that she destroyed records after two years and one month. (Again, Walter Reed would have no way of knowing that I had that record Significantly, in a revision to the timeline that I sent NARA regarding Gulley's destruction of paper records during litigation: two years and one month after March 6, 2014, is April 6, 2016, well after the start of litigation on March 3, 2016 and well after my preservation notices.)

So, on the issue of certified package 7012 1640 0000 9665 4524 Walter Reed and DHA evidently found themselves trapped into a provable lie, in my view.

In what appears to me to be an effort at covering up materially false statements and participation in destruction of records after being caught, Accused Parties deceptively appended to the end of an "Exhibit G" (having nothing whatsoever to do with the certified packages) an apparent CYA, May 22, 2017 5:20:25 PM email from Gulley to Bizzell, Cc: Cygnarowicz. This appears to me may have been engineered by DHA's Deputy General Counsel Paul T. Cygnarowicz. That email (to Bizzell citing Bizzell in third person) is as follows:

--/

From: Gulley, Meki C CIV USN NSA BETHESDA MD (US)

To: Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US)

Cc: Cygnarowicz, Paul T CIV (US)

Subject: Requested Tracking Numbers

Date: Monday, May 22, 2017 5:20:25 PM

Hello Ms. Bizzell,

In reference to tracking numbers 70121640 0000 9665 1035 and 7012 1640 0000 9665 4524, I was only able to locate the latter on which was delivered to WRNMMC on 30 Jan 2014. This was processed (4524) on 30 Jan 2014 addressed to Judy Bizzell - FOIA. Command Secretariat's office handles the mail for FOIA. **We only keep hard copy documentation on file for 2 years and 1 month, then it is shredded.** I have thoroughly researched (1035) on numerous occasions, and have been in regular contact with Ms. Bizzell via telephone conversations. This office does not have any record of requested tracking number (1035).

--/

Note, Ms. Gulley's citation to the certified package 4524 being processed on January 30, 2014 (if true) appears to me to be an effort to suggest that paper records were not destroyed during litigation, all the while (b) (6) picked the package up on February 12, 2014 and Walter Reed's mail services did not return the PS FORM 3811 Domestic Return Receipt card that was physically affixed to certified package 4524 until March 6, 2014. Both of the latter dates place the two year and one month destruction/shredding of records after the start of litigation on March 3, 2016.

As to the certified package 1035, I believe that Walter Reed may fight to the death in denying receipt of that package because it contained an Original DVD of 153 pages of my medical records, that I had given to Ms. Judy Logeman, the Walter Reed Healthcare Resolutions Specialist, in May of 2012 for reconciling which records that Walter Reed had in its possession and had not released to me pursuant to my multiple prior Privacy Act requests to Walter Reed Medical Records Office (such as doctor's orders). That Original DVD is the subject of a Privacy Act violation complaint for which I am seeking no gain; rather, only a small donation directly to the charitable Wounded Warriors Foundation, as stipulated in my court filings. Nevertheless, Bizzell now admits as of as of May 23, 2017 to having that "Original 2012 DVD" in her possession, all the while impossibly denying that Walter Reed ever receive the certified package containing it (1035). Bizzell refers to the DVD and the package containing it as, "the package with USPS tracking number 7012 1640 0000 9665 1035 contained the DVD he lost in the mail."

Cygnarowicz, as DHA's Agency Counsel in litigation and Appellate Authority pre-litigation, presumably would have reviewed each of Ms. Bizzell's sworn declarations and may (or may not) have influenced their content and/or personally drafted or edited portions of them. His role in this is of concern.

Just prior to that May 22, 2017 (apparently contrived) Bizzell email, DHA's Deputy General Counsel Paul T. Cygnarowicz (who had taken over communicating with USPS on Walter Reed's behalf in lieu of Gulley regarding tracking all certified mail receipts) advised USPS in separate emails that: "On March 3, 2016, Mr. Hammond filed a lawsuit against the DoD alleging violations of FOIA and the Privacy Act" and, "This individual is currently in litigation with the DOD, over previous FOIA issues from 2014. There are litigation deadlines pending in the next week that will exhaust our resources ..."

--/

Preservation of Records.

As to my multiple notices to preserve records, Accused Parties falsely state that such notices did not indicate that I “intended to pursue litigation,” and that in any event “FOIA does not require preservation of records.” NARA Staff, please recover those notices, if not destroyed, and you will see that my notices specifically state preservation for judicial review, e.g.,:

*“Please ensure that all responsive or potentially responsive records related to this case and the appeal are gathered into the FOIA case file and **preserved until the statutory date for judicial review has passed**. Please coordinate with all parties noted in the FOIA request and appeal as having potentially responsive records and retain a copy of this correspondence in your FOIA case file.”)*

*“...preserve all records responsive to or potentially responsive to this request that existed at the time of this request until final action has been taken and the **statutory time for judicial review in federal court has passed** or in accordance with a NARA approved record schedule, if longer.”*

(Add one more preservation notice email to my previous list of three: From: (b) (6)
To: judy.j.bizzell.civ@mail.mil, Sent: Thursday, February 26, 2015 5:34 PM.)

--/

Again, I am concerned that DHA and Walter Reed records managers and NARA may be misled, so I am hoping to have an opportunity to preview any draft document closing this complaint to alert you of any inaccuracies prior to doing so.

Thank you again for your integrity and perseverance.

With my respect and appreciation,

Robert Hammond

From: (b) (6)
Sent: Wednesday, January 27, 2021 6:11 AM
To: 'UnauthorizedDisposition@nara.gov' <UnauthorizedDisposition@nara.gov>; 'Andrea Riley' <andrea.riley@nara.gov>; 'GRS Team' <GRS_Team@nara.gov>
Cc: (b) (6)
Subject: FW: NARA Complaint ICO Walter Reed Destruction of Records. FOIA RE Certified Packages

(Best Viewed in HTML)

In furtherance to emails below:

Suffice it to say that records include:

- the records relied upon by Ms. Meki Gulley in her February 21, 2014 conversation with (b) (6) USPS, in which she stated that, "the Certify with label # 70121640000096654524 was picked up on February 12, 2012 by (b) (6). The Certify with label # 70121640000096651035 was picked up on December 17, 2013 by (b) (6)." Compl Ex. 18, at 11.

Thank you for your integrity and your diligence as you move forward with your investigation.

With my respect,

Robert Hammond

Whistleblower

From: (b) (6)
Sent: Saturday, January 16, 2021 9:59 PM
To: 'UnauthorizedDisposition@nara.gov' <UnauthorizedDisposition@nara.gov>; 'Andrea Riley' <andrea.riley@nara.gov>; 'GRS Team' <GRS Team@nara.gov>
Cc: (b) (6)
Subject: RE: NARA Complaint ICO Walter Reed Destruction of Records. FOIA RE Certified Packages

Best Viewed in HTML. Also see attachments. Pls have case manager for this complaint contact me to arrange a phone call.

In furtherance to email of January 16, 2021 3:52 PM below:

1. Please notify the Agency by phone within 5 days. Actual, impending, or threatened damage, alienation, or unauthorized destruction of records.
2. Please see attached Corrected complaint more succinctly stating the allegation for NARA to summarize in your contact with the Agency.
3. Please accurately state my allegation. If you omit the names and positions, it might read:

We have received an allegation that, despite numerous notices to preserve records, Walter Reed National Military Medical Center, named individuals and others, destroyed records in anticipation of and during litigation and that further records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction for an April 26, 2014 FOIA request with the Requester Number FOIA WRNMC #14-1 seeking records related to certified mail tracking numbers 7012 1640000096651035 and 70121640000096654524 and the August 16, 2014 FOIA Appeal thereof. Records include those records that would indicate what actions, if any, Defendants, (including named individuals) took upon being notified of a potential Privacy breach in being unable to locate the two certified packages to one of which contained the Original 2012 DVD of a patient's medical records and the other contained sensitive documents. *See* District of Columbia Civil Action No. 16-421-KBJ, Dkt. No. 1, Complaint Ex. 18, at 3, 4, 6, 7 4 and 19 – 44 (attached).

Additionally, records of notices to preserve records, the forwarding of those notices and any actions taken in response to them, and numerous records of Walter Reed's FOIA Officer's actions/searches/contacts with others cited with exact dates in her declarations three years later during litigation, are alleged to have been destroyed or are in imminent danger of being destroyed. No one could recall such exact dates of actions/searches/contacts three years later during litigation without records, yet when sought during litigation in response to those declarations, records are missing.

From: (b) (6)
Sent: Saturday, January 16, 2021 3:52 PM
To: UnauthorizedDisposition@nara.gov; 'Andrea Riley' <andrea.riley@nara.gov>; 'GRS_Team' <GRS_Team@nara.gov>
Cc: (b) (6)
Subject: NARA Complaint ICO Walter Reed Destruction of Records. FOIA RE Certified Packages
Importance: High

Best Viewed in HTML. Also see attachments. Pls have case manager for this complaint contact me to arrange a phone call.

Actual, impending, or threatened damage, alienation, or unauthorized destruction of records.

January 16, 2020

NARA Complaint ICO Walter Reed Destruction of Records. FOIA RE Certified Packages

I. ALLEGATION.

I am alleging that, despite numerous notices to preserve records, Walter Reed National Military Medical Center, named individuals: FOIA Officer Judy, J. Bizzell, Privacy Officer, Joseph E. Davidge, former

Commander Brigadier General Clark, Mail Room Supervisor Meki Gulley, FOIA Office mail orderly, (b) (6) and others, destroyed records in anticipation of and during litigation and that further records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction for my April 26, 2014 FOIA request with my Requester Number FOIA WRNMC #14-1 seeking records related to certified mail tracking numbers 7012 1640000096651035 and 70121640000096654524 and my August 16, 2014 FOIA Appeal thereof. My Request seeks records that would indicate what actions, if any, Defendants, (including Walter Reed's Director, Brigadier General Clark and Walter Reed's Privacy Compliance Administrator, Joseph E. Davidge) took upon being notified of a potential Privacy breach in being unable to locate the two certified packages to one of which contained the Original 2012 DVD of my medical records and the other contained sensitive documents. *See* District of Columbia Civil Action No. 16-421-KBJ, Dkt. No 1, Complaint Ex 18, at 3, 4, 6, 7 4 and 19 44 (attached)

Additional records cited by Walter Reed's FOIA Officer in her declarations (Bizzell Decl.) related to specific dates where she acted three years prior to her declarations (as enumerated in Dkt No 30, Plaintiff's List of Outstanding Records, Paragraph H) have either already been destroyed or are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction as Bizzell now states that such records do not exist, including:

- Contemporaneous notes, memos or any other records related to Ms Bizzell's discussions [communications] with Ms. Gully and (b) (6) concerning the above certified mail tracking numbers, which took place on or about May 22, 2014; May 26, 2014; June 12, 2014; June 24, 2014; July 15, 2014; August 12, 2014; August 21, 2014; February 18, 2015; April 7, 2015; May 11, 2015; and November 6, 2015 [*See* ECF 18 1, Second Bizzell Decl , ¶¶ 29 33 dated **February 28, 2017**]
- Contemporaneous notes, memos or any other records related to the search of the USPS tracking website that Ms Bizzell alleges she performed on May 30, 2014 *See* ECF 18 1 ¶ 23 [dated **February 28, 2017**]
- Records relied upon by Ms Gulley on May 22, 2017, in acknowledging receipt of certified package 7012 1640 0000 9665 4524. *See* ECF 25-2 ¶32. [Third Bizzell Decl.]

Additionally, records of my February 15, 2015, April 5, 2015 and May 10, 2015 notices Walter Reed's FOIA Officer and others to preserve records for judicial review, including any forwarding or action taken as a result of them have either already been destroyed or are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction,

Walter Reed and Defense Health Agency legal staff, including Agency Counsel Paul Thomas Cygnarowicz, MD Bar 12- 9212150146, allegedly have participated in, are participating in, or believed to be participating in any such unlawful action, in part by falsely claiming in court documents that Walter Reed is not required to retain records subject to FOIA, and as officers of the Court are required to have reported such unlawful destruction of records of which they have knowledge, including destruction of records during litigation There is no attorney/client shield for participating in unlawful acts, if true, in my view.

The Agency's citations during litigation to not being required to retain records sought under FOIA and to deleting them under their records schedules indicates that they are actively deleting records that are subject to FOIA retention irrespective of the otherwise normal retention schedule. Further records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction. See Attachment A. "Actual and Imminent Destruction of Mail Room & Other Records"

This alleged and apparently admitted destruction occurred and may be ongoing despite numerous notices to preserve records. Mail Room Supervisor Meki Gully states that hard copy mail records responsive to this FOIA request were destroyed/shredded not only after they were sought via FOIA but after litigation commenced on March 2, 2016.

-

II. IDENTIFICATION OF RECORDS.

I am seeking that in response to this NARA complaint, IAW 36 CFR 1230.16, Walter Reed account for (and produce if not destroyed) each of the specific records below sought in my FOIA request and appeal, which were known to exist at the time of my Request and Appeal and litigation

Information Requested via FOIA In my FOIA request, I am requesting all records from November 26, 2013 to present relating to certified mail tracking number 7012 1640 0000 9665 1035 (mailed on November 26, 2013) and certified mail tracking number 7012 1640 0000 9665 4524 (mailed on January 27, 2014). Information requested includes, but **is not limited to**:

- *Emails regarding package/mail delivery/pick-up, or anything related to the specific certified packages above between any of the following parties: Judy Bizzell, Joe. E. Davidge, Ms. Gully (Mail Services), (b) (6) (purported mail orderly for FOIA Office), Brigadier General Clark, (b) (6), any member of the command staff or any other party.*
- *Any material related to inquiry conducted in connection with these packages that may have been initiated by Brigadier General Clark or others;*
- *Letters or other correspondence including those sent to Brigadier General Clark;*
- *Records of phone logs for the telephones assigned to the above personnel and 301-670-6049, 301-295-4611, 301-295-4000, 301 295-0162*

See Dkt No 1, Complaint E 18, at 2

Plaintiff further delineate such records in his appeal where such records may be located, stating

Specific Information Known by WRNMMC to E i t

1 Mail Room Record The WRNMMC Mail Room is required to (and does) maintain records of certified mail received from USPS. The mail room notifies the parties to whom the mail is addressed and/or their designated mail orderly to pick up mail. This notification is done by email. The mail room obtains signatures from personnel who pick up certified mail and maintains logs. The mail room returns USPS form PS Form 3811 Domestic Return Receipt form and maintains appropriate records. These are agency records subject to FOIA. Attachment C clearly demonstrates that the mail room received both packages. According to statements made by (b) (6), USPS Consumer and Industry Contact Northern Virginia District (b) (6) and Ms. Gully (WRNMMC Mail Services), both packages were picked up by (b) (6) (purportedly the mail orderly for the WRNMMC FOIA/PA Office). WRNMMC FOIA/PA Office did not conduct a search for mail room records.

2. WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office Records. Both packages were addressed to Ms. Bizzell in the FOIA Office, who states that she did not receive them (see Attachment

E). For the FOIA Officer to suggest that the packages were not received in that office can only mean that my medical records are missing or have been compromised and that appropriate Privacy Act breach reporting is required. WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office did not conduct a search of the HIPAA/Privacy Act/FOIA/Civil Liberties Office for records related to the packages, including the DVD containing my PHI/PII and other contents of the packages containing my PHI/PII.

3. Records of Letters or Other Correspondence Including Those Sent to Brigadier General Clark. Please see the fax cover page images at Attachment D showing some letters that were sent to the Office of Brigadier General Clark. Please also see the USPS Form 3811, Certified Mail Receipt, for correspondence relevant to this FOIA request and the potential loss or compromise of my medical records referenced above. Upon receipt, these became agency records in WRNMMC possession that are clearly subject to FOIA. I am seeking the “Received Fax” agency records and received correspondence agency records. Moreover, WRNMMC is required to (and does) log in, file under appropriate record retention schedule and assign action to every correspondence addressed to the Commander. Such records are official agency records and required by law to be maintained. Moreover, there are records related to the assignment by the Command staff for action to be completed by WRNMMC action officers and records of completed action. This would be done by email or route sheet with a cover page. WRNMMC FOIA Office did not search for these agency records, bring them into the FOIA case file and provide them in response to my FOIA request.

4. Records of Phone Logs. Attachment C clearly shows that phone calls between the referenced numbers were made. WRNMMC FOIA Office did not conduct a search for phone records (likely provided by DISA).

5. Inquiry Initiated by Brigadier General Clark or His Staff. Please refer to Attachment D. To suggest that no inquiry or action of any kind was initiated by WRNMMC for this important HIPAA/Privacy Act issue is troubling and improbable. WRNMMC FOIA Office did not conduct a reasonable search for these records in the Office of the Commander, the legal office, PA Office, etc.

6. Records of Emails. *Agency email records clearly exist, including emails that I sent to Ms. Bizzell and any forwarding of those emails. Please see Attachment E. Moreover, emails may exist related to other actions taken by Ms. Bizzell or personnel in the PA Office. These are agency records that must be maintained. To suggest that I may have some records that were not provided incident to my FOIA request is nonresponsive. I am seeking copies of the agency records that were brought under agency record retention schedules. WRNMMC must locate all such emails, maintain them in their FOIA case file and provide copies to me in response to my FOIA request. Any emails that have been deleted by the respective parties should be retrieved from WRNMMC backup email servers.*

7. Records of Contact with the Defense Health Agency HIPAA/Privacy Act/FOIA/Civil Liberties Office.

8. A Dated, Serialized and Signed Copy of the WRNMMC Letter at Attachment B.

See Dkt. No. 1, Complaint Ex. 18, at 3, 4.

As to certified mail records, Defendants maintain extensive electronic records. Walter Reed: (1) maintains PS Form 3883, Firm Delivery Receipt for Accountable and Bulk Delivery Mail upon receiving packages from USPS, identifying the article number article number and delivery “mail for,” which is signed and dated by the Mail Services person receiving the packages; (2) scans each certified mail package, including the signature of the Walter Reed employee when the employee picks up the package; (3) adds an internal bar-coded label to the certified package with the name of the person to receive the mail and the office for tracking in an internal mail delivery system; (4) maintains USPS Form 3849 Delivery Notice/Reminder/Receipt, which records the signature of the person picking up the package, and; (5) maintains emails to and from the Mail Services Manager, Ms. Meki Gulley. See Dkt. No. 22-2, Hammond Decla. ¶¶ 64, 65; Dkt. No. 24-8, Ex. B-7; Dkt. No. 22-3 ¶¶ 197, 198.

The above records may have been destroyed or are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction, as Bizzell/Gulley claim that they do not exist.

III. SUPPORTING RECORDS

-

The attached supporting document “Destruction of Records” documents the incontrovertible existence of records at the time of my FOIA request and appeal, numerous specific notices to Walter Reed to preserve them for judicial review, Walter Reed acknowledgements of such preservation notices, Walter Reed statements that they are not required to preserve records and a statement by Mail Room Supervisor Meki Gulley that PAPER records were destroyed AFTER the start of litigation on March 2, 2016. Citations therein are to Case 1:16-cv-00421-KBJ documents available at Pacer.gov.

16-421-KBJ, Dkt. No. 1, Complaint Ex. 18 is attached.

IV. APPLICABLE RETENTION SCHEDULE, NARA GRS 4.2 Item 20

020	Access and disclosure request files. Case files created in response to requests for information under the Freedom of Information Act (FOIA), Mandatory Declassification Review (MDR) process, Privacy Act (PA), Classification Challenge, and similar access programs, and completed by: <ul style="list-style-type: none">• granting the request in full• granting the request in part• denying the request for any reason including:<ul style="list-style-type: none">o inability to fulfill request because records do not existo inability to fulfill request because request inadequately describes recordso inability to fulfill request because search or reproduction fees are not paid	Temporary. Destroy 6 years after final agency action or 3 years after final adjudication by the courts, whichever is later, but longer retention is authorized if required for business use.	DAA-GRS-2016-00020001
-----	--	---	-----------------------

V. 36 CFR § 1230.3

Unlawful or accidental destruction (also called unauthorized destruction) means disposal of an unscheduled or permanent record; disposal prior to the end of the [NARA](#)-approved retention period of a temporary record (other than court-ordered disposal under [§ 1226.14\(d\)](#) of this subchapter); and disposal of a record subject to a **FOIA request**, litigation hold, or any other hold requirement to retain the records.

VI. 44 U.S. CODE § 3106 - UNLAWFUL REMOVAL, DESTRUCTION OF RECORDS

(a)FEDERAL AGENCY NOTIFICATION.—

The head of each Federal agency shall notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, corruption, deletion, erasure, or other destruction of records in the custody of the agency, and with the assistance of the Archivist shall initiate action through the Attorney General for the recovery of records the head of the Federal agency knows or has reason to believe have been unlawfully removed from that agency, or from another Federal agency whose records have been transferred to the legal custody of that Federal agency.

(b)ARCHIVIST NOTIFICATION.—

In any case in which the head of a Federal agency does not initiate an action for such recovery or other redress within a reasonable period of time after being notified of any such unlawful action described in

subsection (a), or is participating in, or believed to be participating in any such unlawful action, the Archivist shall request the Attorney General to initiate such an action, and shall notify the Congress when such a request has been made.

([Pub. L. 90–620](#), Oct. 22, 1968, [82 Stat. 1298](#); [Pub. L. 98–497, title I, § 107\(b\)\(21\)](#), title II, § 203(b), Oct. 19, 1984, [98 Stat. 2290](#), 2294; [Pub. L. 113–187, § 4](#), Nov. 26, 2014, [128 Stat. 2009](#).)

I would like to speak with the case manager handling this complaint, which may be LAURENCE BREWER Chief Records Officer for the U.S. Government or a subordinate. Please email me with contact information and an available time.

This is submitted upon information, belief and records available to me.

With my respect,

/s/

Robert Hammond


January 16, 2020

Whistleblower

Attachments:

- A. Actual and Imminent Destruction of Mail Room & Other Records
- B. Case 16-421-KBJ, Dkt. No. 1, Complaint Ex. 18
- C. Meki Gulley Admitted Destruction, Shredding of Mail Records During Litigation
- D. Ex. B-4_ USPS_ (b) (6) Signed Contemporaneous Notes

2 attachments

 **USPS's (b) (6) Email of February 21, 2014 Confirming Conversation with Gulley.pdf**
425K

 **Ex. B-4_ USPS_ (b) (6) Signed Contemporaneous Notes.pdf**
1715K

(b) (6)

Product Tracking System

NOVA Consumer Affairs

Help

UNITED STATES
POSTAL SERVICE

Home

Search

Reports

Manual Entry

Rates/
Commitments

PTS / EDW

USPS Corporate
Accounts

February 11, 2014

Track & Confirm Intranet Tracking Number Result

Result for Domestic Tracking Number 7012 1640 0000 9665 4524

Destination and Origin

Destination

ZIP Code	City	State
20889	BETHESDA	MD

Origin

ZIP Code	City	State
22306500	ALEXANDRIA	VA

Tracking Number Classification

Class/Service

Class/Service: Priority Mail Certified Mail
Class of Mail Code/Description: PM / Priority Mail 1-Day™

Service Delivery Information

Service Performance Date: Scheduled Delivery Date: Tuesday, 01/28/2014
Predicted Delivery Date: Tuesday, 01/28/2014
Zone: 01
PO Box: N
Other Information: Service Calculation Information

Payment

Payment Type: Other Postage
Payment Account Number: 000000000000
Postage: \$5.60
Weight: 1 lb(s) 1 oz(s)
Rate Indicator: Flat Rate Padded Envelope

Extra Services

Extra Services Details

Description	Amount
Certified Mail	\$3.30
Return Receipt	\$2.70
No insurance included	\$0.00

Events

Event	Event Date	Event Time	Location	Input Method	Scanner ID	Carrier Route	Other Information
DISPATCHED FROM SORT FACILITY	01/28/2014	03:33	MERRIFIELD, VA 22081	System Generated			Dispatch Label ID: D814 4129 7222 1401 2802 3719 Request Delivery Record
ENROUTE/PROCESSED	01/27/2014	20:11	MERRIFIELD, VA 22081	Scanned	AFSM100-002-1	Destined to route 208895600	
DISPATCHED TO SORT FACILITY	01/27/2014	17:58	ALEXANDRIA, VA 22311	System Generated			Closeout Label ID: CT13 8492 5000 1401 2717 1331
ACCEPT OR PICKUP	01/27/2014	17:14	ALEXANDRIA, VA 22311	Scanned	030SHQ0H16	Scanned by route 2311P501	Facility Finance Number: 510122
ACCEPT OR PICKUP	01/27/2014	12:01	ALEXANDRIA, VA 22350	Scanned			Facility Finance Number: 510114

Enter up to 10 items separated by commas.

Select Search Type: Quick Search

Submit

Product Tracking System, All Rights Reserved
Version: 1.7.0.14

(b) (6)

(b) (6)

Westlake
Laura DavarakNARA Complaint Record
Feb. 12/14
picked for(301) 295 4611
HospitalBase Operator
(301) 295 4000
(301) 295 0162
Base Post of.
Ms. Gully
4203

2

Product Tracking System



Home Search Reports Manual Entry Rates/Commitments PTS / EDW USPS Corporate Accounts February 11, 2014

Track & Confirm Intranet Tracking Number Result

Result for Domestic Tracking Number 7012 1640 0000 9665 1035

Destination and Origin							
Destination							
ZIP Code	City	State					
20889	BETHESDA	MD					
Origin							
ZIP Code	City	State					
221809998	VIENNA	VA					
Tracking Number Classification							
Class/Service							
Class/Service: Priority Mail Certified Mail							
Class of Mail Code/Description: PM / Priority Mail 1-Day™							
Service Delivery Information							
Service Performance Date: Scheduled Delivery Date: Wednesday, 11/27/2013							
Delivery Option Indicator: 1 - Normal Delivery							
Zone: 01							
PO Box: N							
Other Information: Service Calculation Information							
Payment							
Postage: \$5.60							
Weight: 0 lb(s) 11 oz(s)							
Rate Indicator: Flat Rate Padded Envelope							
Extra Services							
Extra Services Details							
Description	Amount						
Certified Mail	\$3.10						
Restricted Delivery	\$4.75						
Return Receipt	\$2.55						
No Insurance Included	\$0.00						
Events							
Event	Event Date	Event Time	Location	Input Method	Scanner ID	Carrier Route	Other Information
DISPATCHED FROM SORT FACILITY	11/27/2013	02:47	MERRIFIELD, VA 22061	System Generated			Dispatch Label ID: DS14 4128 7222 1311 2701 5718 Request Delivery Record
ENROUTE/PROCESSED	11/26/2013	22:12	MERRIFIELD, VA 22061	Scanned	SPDPTS-001-000003		
DISPATCHED TO SORT FACILITY	11/26/2013	17:27	VIENNA, VA 22180	System Generated			Closeout Label ID: CT13 6585 7000 1311 2616 3033
ACCEPT OR PICKUP	11/26/2013	16:09	VIENNA, VA 22180	Scanned			Facility Finance Number: 519318
ACCEPT OR PICKUP	11/26/2013	16:07	VIENNA, VA 22180	Scanned			Facility Finance Number: 519318

Enter up to 10 items separated by commas.

Select Search Type: Quick Search

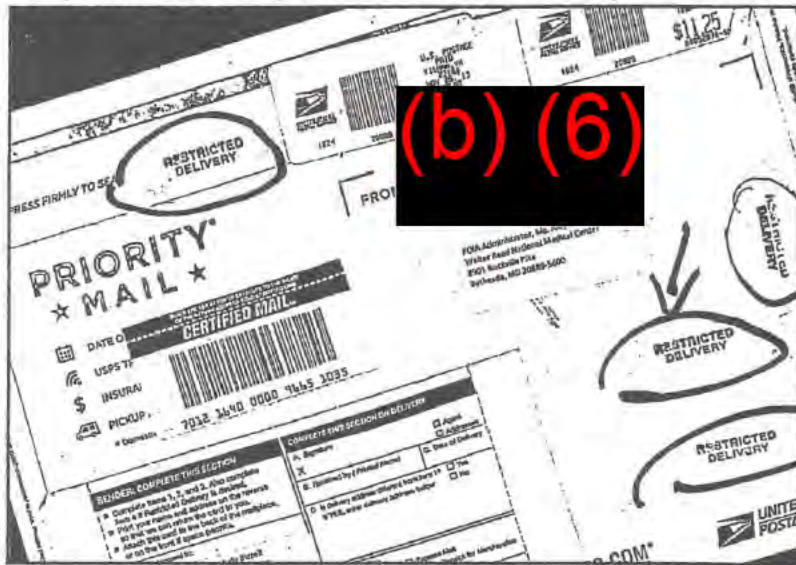
Submit

Product Tracking System, All Rights Reserved
Version: 1.7.0.14

Dec 17 AM
picked by mail orderly

(3)

MPE/Site/Mach: APBS/Northern VA PDC/1 Run-Oper: 0011-438 Date: 11/26/2013



MailPiece#: 10381202

Capture Time: 11/26/2013 22:12

Sort Plan: 438PG220

Operation: 438

Ind. Station: Auto 3 Side 1

Weight: 11.2 Oz. (0.7 lb.)

MP Type: Parcel

Length: 6.6 In.

Process Time: 0.7 Sec.

Width: 12.4 In.

Bin: 8

Height: 1.6 In.

Rate:

Postage: N/A

ARU: BCR

AR: BC: I2OF5: 20889

VCS:

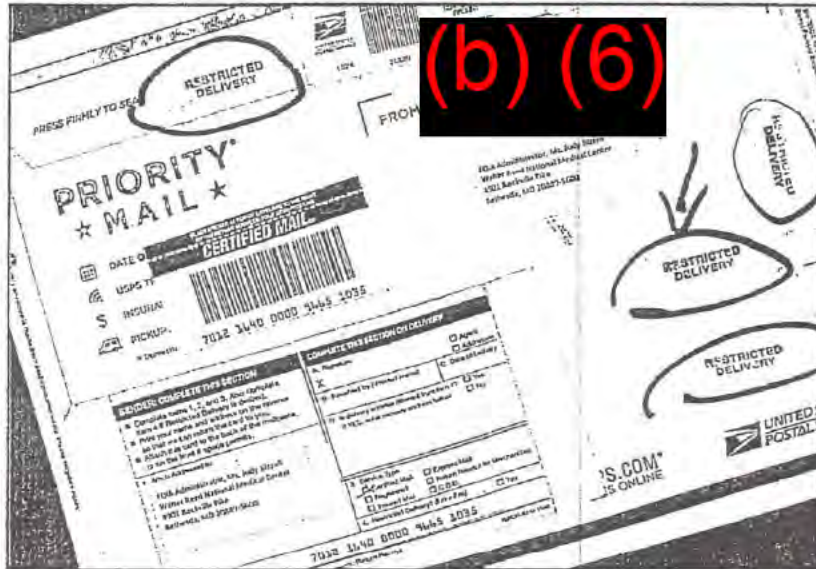
OCR:

BCR:CODE 128: 70121640000096651035
I2OF5: 20889

NARA Complaint Record

(4)

MPE/Site/Mach: APBS/Northern VA PDC/1 Run-Oper: 0011-438 Date: 11/26/2013



MailPiece#: 10381202

Capture Time: 11/26/2013 22:17

Sort Plan: 438PG220

Operation: 438

Ind. Station: Auto 3 Side 1

Weight: 11.2 Oz. (0.7 lbs.)

MP Type: Parcel

Length: 6.6 In.

Process Time: 0.7 Sec.

Width: 12.4 In.

Bin: 8

Height: 1.0 In.

Rate:

Postage: N/A

ARU: BCR

AR: BC: I2OF5: 20889

VCS:

OCR:

BCR:CODE 128: 7012114000096651035
I2OF5: 20889

NARA Complaint Record

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Enter up to 10 Tracking # Find

[Shop & Postage](#)[Road Map](#)[Manage Mailings](#)[Shop](#)[Business Solutions](#)

USPS Tracking™

[USPS® Sign In](#)

Have questions? We're here to help.

7012164000096651035

November 27, 2013

Postal Product:
Priority Mail 1-Day™Features:
Certified Mail™
Return Receipt

Restricted Delivery

Email Updates

DATE & TIME

STATUS OF ITEM

LOCATION

November 27, 2013

Depart USPS Sort
Facility

MERRIFIELD, VA 22081

November 26, 2013, 10:12
pmProcessed at USPS
Origin Sort Facility

MERRIFIELD, VA 22081

November 26, 2013, 5:27
pmDispatched to Sort
Facility

VIENNA, VA 22180

November 26, 2013, 4:07
pm

Acceptance

VIENNA, VA 22180

What's your tracking (or receipt) number?

NARA Complaint Record

LEGAL

ON USPS.COM

ON ABOUT.USPS.COM

OTHER USPS SITES

USPS

[Privacy Policy](#)
[Terms of Use](#)
[Site Map](#)
[Accessibility](#)
[Feedback](#)
[Help](#)

[About USPS](#)
[USPS Services](#)
[USPS Retail](#)
[USPS Business](#)

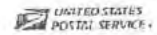
[Business Solutions](#)
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6

Product Tracking System



Home

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USPS Corporate
Accounts

© 2013

Track & Confirm Intranet Tracking Number Result

Result for Domestic Tracking Number 7012 1640 0000 9665 1035

Destination and Origin

Destination

ZIP Code	City	State
20889	DIETHESDA	MD

Origin

ZIP Code	City	State
22180	VIENNA	VA

Tracking Number Classification

Class/Service

Class/Service: Priority Mail Certified Mail
 Class of Mail Code/Description: PM / Priority Mail 1-Day™

Service Delivery Information

Service Performance Date: Scheduled Delivery Date: 11/27/2013
 Delivery Option Indicator: 1 - Normal Delivery
 Zone: 01
 PO Box: N
 Other Information: Service Calculation Information

Payment

Payment Type: Other Postage
 Payment Account Number: 0000000000
 Postage: \$5.60
 Weight: 0 lb(s) 11 oz(s)
 Rate Indicator: Flat Rate Padded Envelope

Extra Services

Extra Services Details

Description	Amount
Certified Mail	\$3.10
Restricted Delivery	\$4.75
Return Receipt	\$2.55
No insurance included	\$0.00

Events

Event	Event Date	Event Time	Location	Input Method	Scanner ID	Carrier Route	Other Information
DISPATCHED FROM SORT FACILITY	11/27/2013	02:47	MERRIFIELD, VA 22081	System Generated			Dispatch Label ID: 0514 4129 2225 1311 2701 5738 Request Delivery Record
ENROUTE/PROCESSED	11/26/2013	22:12	MERRIFIELD, VA 22081	Scanned	SPUSTG-001-000003		
DISPATCHED TO SORT FACILITY	11/26/2013	17:27	VIENNA, VA 22180	System Generated			Cleanout Label ID: 0713 8506 2600 1311 2616 3033
ACCEPT OR PICKUP	11/26/2013	16:09	VIENNA, VA 22180	Scanned			Facility Finance Number: 519318
ACCEPT OR PICKUP	11/26/2013	16:07	VIENNA, VA 22180	Scanned			Facility Finance Number: 519318

Enter up to 10 items separated by commas.

Select Search Type: Quick Search

Submit

Product Tracking System, All Rights Reserved
 Version: 1.6.2.0

Merrifield Post Office

Dear Sir,

Please initiate a tracer on the certified mail attached. My contact information is;

Robert Hammond

(b) (6)

NARA Complaint Record

Attachment C: Certified Mail 70121640000096654524 and 70121640000096651035

From: (b) (6)
To: (b) (6)
Sent: 2/21/2014 4:11:47 P.M. Eastern Standard Time
Subj: Certified Mail 70121640000096654524 and 70121640000096651035

Mr. Hammond,

On February 21, 2014 I spoke with Ms. Gulley who is the Manager of the Bethesda Hospital Mail Services about your two certified mailings. She investigated and determined that the Certify with label # 70121640000096654524 was picked up on February 12, 2012 by Ms. Simpson. The Certify with label # 70121640000096651035 was picked up on December 17, 2013 by Ms. Simpson.

Ms. Simpson is the mail orderly for the FOIA Officer Judy Bizzell.

Ms. Gulley's contact telephone number (b) (6)

Mail for Bethesda is sorted and dispatched from the Anacostia Plant Facility.

Below is an image of your package.



(b) (6)

*Consumer and Industry Contact
Northern Virginia District
8409 Lee Highway, Room 102
Merrifield, VA 22081
Telephone (703) 698-6382
Fax (703) 204-3075*

(b) (6)

Have a WONDERFUL Day!

NARA Complaint Record

Defense Health Agency (Walter Reed) ARO and SAO Contacts

Steven Rhodes <steven.rhodes@nara.gov>
To: Jametta Davis <jametta.davis@nara.gov>

Fri, Feb 12, 2021 at 10:57 AM

Hi Jametta,

I hope you are doing well. Walter Reed is DoD, even though the leadership is currently Army. I recommend sending the notification to Luz Ortiz, the RO for DoD, Washington Headquarters Services (WHS):

luz.d.ortiz.civ@mail.mil

Mrs. Luz D. Ortiz

DoD/WHS/ESD/

Chief, Records and Declassification Div

OSD Records Administrator

Office: (571) 372-0478

Gov Cell: (b) (6)

Records & Declass Mailbox: whs.mc-alex.esd.mbx.records-and-declassification@mail.mil

Comments: <https://ice.disa.mil/index.cfm?fa=card&sp=139870>

Have a great day.

Steve

On Fri, Feb 12, 2021 at 10 29 AM Jametta Davi [jametta davi @nara gov](mailto:jametta.davi@nara.gov) wrote
Hello Steve,

I have a UD for DHA (Walter Reed) but do not see the agency or contacts - ARO and SAO listed on NARA's webpage. Could you tell me who the POC are? Would the head DOD ARO receive the notification?

Thanks,
Jametta

--

Jametta A. Davis, Ph.D.
Records Management Oversight and Reporting Division (ACO2)
National Archive and Record Administration

Steven B. Rhodes
Appraisal Archivist
NARA
Records Management Services
College Park, MD
(301) 837-3055

So put me on a highway, and show me a sign, and take it to the limit one more time
- The Eagles

Re: Invitation: UD/FOIA Cases @ Thu Feb 18, 2021 2pm - 2:30pm (EST)
(hannah.bergman@nara.gov)

Evangela Wimbu h Jeffrey evangela.wimbu h jeffrey@nara.gov

Wed, Feb 24, 2021 at 11 06 AM

To: Jametta Davis <jametta.davis@nara.gov>

Good morning,

Please take a look at Hannah's request and provide her with the pertinent document. Let me know if you have any questions. Thanks!

Evangela C. Wimbush-Jeffrey | Records Management Oversight & Reporting
National Archives and Records Administration | Office of the Chief Records Officer
(301) 837-0730 (Office) | (b) (6) (Cell) | evangela.wimbush-jeffrey@nara.gov

Forwarded message

From: **Hannah Bergman** <Hannah.Bergman@nara.gov>

Date: Tue, Feb 23, 2021 at 2:18 PM

Subject: Re: Invitation: UD/FOIA Cases @ Thu Feb 18, 2021 2pm - 2:30pm (EST) (hannah.bergman@nara.gov)To: Evangela Wimbu h Jeffrey evangela.wimbu h jeffrey@nara.govCc: Jeannette Wise <jeannette.wise@nara.gov>, Davis, Jametta <jametta.davis@nara.gov>, Rosen, Donald <donald.rosen@nara.gov>, Brewer, Laurence <laurence.brewer@nara.gov>

Yes! Thanks!

On Tue, Feb 23, 2021 at 2:11 PM Evangela Wimbush-Jeffrey <evangela.wimbush-jeffrey@nara.gov> wrote:

Good afternoon,

Jametta is out this afternoon. She has been working with the agency more closely than I have. We will provide you with this requested information tomorrow when Jametta is back in the office. Would that be okay? Thanks!

Evangela C. Wimbush-Jeffrey | Records Management Oversight & Reporting
National Archives and Records Administration | Office of the Chief Records Officer
(301) 837-0730 (Office) | (b) (6) (Cell) | evangela.wimbush-jeffrey@nara.gov

On Tue, Feb 23, 2021 at 1:25 PM Hannah Bergman <Hannah.Bergman@nara.gov> wrote:

Hi Evangela and everyone,

I wanted to circle back on the whistleblower question. Can you share the email that we were talking about and that you want to share with the agency? I think this is likely fine but I would just like to take a quick look. Also, this person

was not an employee of the other agency, correct?

Hannah

On Wed, Feb 17, 2021 at 1:43 PM Evangela Wimbush-Jeffrey <evangela.wimbush-jeffrey@nara.gov> wrote:

You have been invited to the following event.

UD/FOIA Cases

When Thu Feb 18, 2021 2pm - 2:30pm Eastern Time New York

[more detail](#)

Joining info Join with Google Meet

(b) (7)(E)

Join by phone

(b) (7)(E)

[More phone numbers](#)

Calendar hannah.bergman@nara.gov

Who

- evangela.wimbush-jeffrey@nara.gov - organizer
- jeannette.wise@nara.gov
- jametta.davis@nara.gov
- hannah.bergman@nara.gov
- donald.rosen@nara.gov
- laurence.brewer@nara.gov

The purpose of this meeting is to determine what documentation NARA can and cannot provide to an agency, to assist with investigating an UD, when the person making the allegation is a whistleblower.

Going (hannah.bergman@nara.gov)? [Yes](#) - [Maybe](#) - [No](#) [more options »](#)

Invitation from [Google Calendar](#)

You are receiving this email at the account hannah.bergman@nara.gov because you are subscribed for invitations on calendar hannah.bergman@nara.gov.

To stop receiving these emails, please log in to <https://calendar.google.com/calendar/> and change your notification settings for this calendar.

Forwarding this invitation could allow any recipient to send a response to the organizer and be added to the guest list, or invite others regardless of their own invitation status, or to modify your RSVP [Learn More](#)

CORRESPONDENCE -- UD-2021-0019_DOD DHA_Open Letter_1301-1b

Laurence Brewer <laurence.brewer@nara.gov>

Fri, Feb 26, 2021 at 11:16 AM

To: Donald Rosen <donald.rosen@nara.gov>, Tina Chase Fomukong <tina.chasefomukong@nara.gov>

Cc: Evangela Wimbush-Jeffrey <evangela.wimbush-jeffrey@nara.gov>, "Davis, Jametta" <jametta.davis@nara.gov>

Thanks, signed.

On Fri, Feb 19, 2021 at 2:26 PM Donald Rosen <donald.rosen@nara.gov> wrote:

Hi Laurence -

Attached is a draft Open letter for a case at DOD. Please review the draft letter (and the associated documentation we received). This is the second of multiple letters associated with this case.

Let us know if you would like a meeting to discuss.

Thanks,

Don

Donald Rosen
Director, Records Management Oversight and Reporting
Office of the Chief Records Officer
301-837-3426

Forwarded message

From: **Evangela Wimbush-Jeffrey** <evangela.wimbush-jeffrey@nara.gov>

Date: Wed, Feb 17, 2021 at 11:53 AM

Subject: Fwd: CORRESPONDENCE -- UD-2021-0019_DOD DHA_Open Letter_1301-1b

To: Donald Rosen <donald.rosen@nara.gov>

Cc: Jametta Davis <jametta.davis@nara.gov>

Good morning,

Here is correspondence to open another UD case for DoD/DHA. Please let me know if you have any questions or concerns. Thanks!

Evangela C Wimbush-Jeffrey | Records Management Oversight & Reporting
National Archives and Records Administration | Office of the Chief Records Officer
(301) 837-0730 (Office) | (b) (6) (Cell) | evangela.wimbush-jeffrey@nara.gov

----- Forwarded message -----

From: **Jametta Davis** <jametta.davis@nara.gov>

Date: Tue, Feb 16, 2021 at 6:03 PM

Subject: CORRESPONDENCE -- UD 2021 0019 DOD DHA_Open Letter_1301-1b

To: Evangela Wimbush-Jeffrey <evangela.wimbush-jeffrey@nara.gov>

Good Afternoon Evangela,

Routing list:

1. Evangela Wimbu h Jeffrey
2. Don Rosen
3. Laurence Brewer
4. Tina Chase Fomukung
5. Jametta Davi

Please review:

 [2021-02-16_UD-2021-0019_DOD DHA_Open Letter_130...](#)

 [2021-01-16_UD-2021-0019_DOD-DHA_RUD.pdf](#)

--

Jametta A. Davi, Ph.D.
Records Management Oversight and Reporting Division (ACO2)
National Archives and Records Administration

--

Laurence Brewer, CRM

Chief Records Officer for the U.S. Government

National Archives and Records Administration

Laurence.Brewer@nara.gov

Office: (301) 837-1539

Cell: (301) 974-4582

Blog: [Record Edge](#)





Office of the Chief
Records Officer for the
U.S. Government

Sent Via Email. No Hard Copy to Follow.

March 1, 2021

Ms. Luz D. Ortiz
Department of Defense
Office of the Secretary of Defense
4800 Mark Center Drive, Suite 02F09-02
Alexandria, VA 22350-3100
luz.d.ortiz.civ@mail.mil

Dear Ms. Ortiz:

The National Archives and Records Administration (NARA) has been notified of a potential unauthorized disposition of records at the Defense Health Agency's (DHA) Walter Reed National Military Medical Center (WRNMMC). A member of the public alleges that in response to an April 26, 2014 FOIA request to WRNMMC an unlawful destruction of records occurred. The request (requester number: FOIA WRNMMC #14-1) sought records related to an August 16, 2014 FOIA appeal, and specifically documents with certified mail tracking numbers 70121640000096651035 and 70121640000096654524.

NARA requests that the DHA investigate this matter to determine if all applicable FOIA records were provided at the time of the request and whether responsive records were/or will be destroyed in accordance with the appropriate records disposition schedules. Please note that per 36 CFR 1230.14, if records have been destroyed without NARA's proper authorization, the agency must report these incidents promptly to NARA.

NARA requests that you provide NARA with a response within 30 days in accordance with 36 CFR 1230.16. Your report should include a description of the records; the records schedule disposition citation that covers the files; details regarding the records destruction incident and recovery efforts; and a statement of the safeguards that have been or will be implemented to prevent future unauthorized disposals of such records. If you have any questions, please contact me at laurence.brewer@nara.gov.

Sincerely,

A handwritten signature in blue ink that reads "Laurence V. Brewer". The signature is fluid and cursive, with the first name "Laurence" being more prominent than the last name "Brewer".

LAURENCE BREWER
Chief Records Officer
for the U.S. Government

Signed DOD Letters

Tina Chase Fomukong <tina.chasefomukong@nara.gov>

Mon, Mar 1, 2021 at 6:15 AM

To: Jametta Davis <jametta.davis@nara.gov>, Evangela Wimbush-Jeffrey <evangela.wimbush-jeffrey@nara.gov>

Good morning Jametta and Evangela,
Here are the signed DOD letter

Tina

Tina m. Chase Fomukong
Management & Program Analyst
Office of the Chief Records Officer
National Archives & Records Administration
tina.chasefomukong@nara.gov
301 837 1907

3 attachments

 **2021-03-01_UD-2021-0019_DOD DHA_Open Letter_1301-1b.pdf**
90K

 **2021-03-01_UD-2021-0020_DOD DHA_Open Letter_1301-1b.pdf**
84K

 **2021-03-01_UD-2021-0018_DOD DHA_Open Letter_1301-1b.pdf**
84K

Telework 9:15 - 1:15 - Use of 4 hrs admin leave

Evangela Wimbush-Jeffrey <evangela.wimbush-jeffrey@nara.gov>

Mon, Mar 1, 2021 at 9:49 AM

To: Jametta Davis <jametta.davis@nara.gov>

Good morning,

The letters are very detailed. We could send the letters then wait to see if DHA requests further information. Thanks!

Evangela C. Wimbush-Jeffrey | Records Management Oversight & Reporting
National Archives and Records Administration | Office of the Chief Records Officer
(301) 837 0730 (Office) (b) (6) (Cell) | evangela.wimbush-jeffrey@nara.gov

On Mon, Mar 1, 2021 at 9:35 AM Jametta Davis <jametta.davis@nara.gov> wrote:

They are but what background information is sufficient to provide to the agency?

On Mon, Mar 1, 2021, 9:27 AM Evangela Wimbush-Jeffrey <evangela.wimbush-jeffrey@nara.gov> wrote:

Good morning,

I think that the letters are ready to go but we can discuss at our one-on-one. Thanks!

Evangela C. Wimbush-Jeffrey | Records Management Oversight & Reporting
National Archives and Records Administration | Office of the Chief Records Officer
(301) 837 0730 (Office) (b) (6) (Cell) | evangela.wimbush-jeffrey@nara.gov

On Mon, Mar 1, 2021 at 9:20 AM Jametta Davis <jametta.davis@nara.gov> wrote:

Good Morning Evangela,

I'll work on UD's today but will hold off on sending letters to DHA until Hannah provides feedback. I am requesting use of 4 hours admin leave. Have a great day.

Thanks,
Jametta

NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0019)

Ortiz, Luz D CIV WHS ESD (USA) luz.d.ortiz.civ@mail.mil

Tue, Mar 2, 2021 at 1:49 PM

To: Jametta Davis <jametta.davis@nara.gov>

Cc: "Welch, Sebastian" <sebastian.welch@nara.gov>, "Hawkins, Margaret" <margaret.hawkins@nara.gov>, "McCully, Ronald R Jr CIV WHS ESD (USA)" <ronald.r.mccully2.civ@mail.mil>

Ms. Davis,

I acknowledge receipt and will notify DHA.

Regards,

Mrs. Luz D. Ortiz

DoD/WHS/ESD/

Chief, Records and Declassification Div

OSD Records Administrator

Office: (571) 372-0478

Gov Cell (b) (6)

Records & Declass Mailbox: whs.mc-alex.esd.mbx.records-and-declassification@mail.mil

Comments: <https://ice.disa.mil/index.cfm?fa=card&sp=139870>**From:** Jametta Davis jametta.davis@nara.gov**Sent:** Tuesday, March 2, 2021 11:36 AM**To:** Ortiz, Luz D CIV WHS ESD (USA) luz.d.ortiz.civ@mail.mil**Cc:** Welch, Sebastian <sebastian.welch@nara.gov>; Hawkins, Margaret <margaret.hawkins@nara.gov>**Subject:** [Non DoD Source] NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0019)

Dear Ms. Ortiz,

On behalf of the Chief Records Officer for the United States Government, Laurence Brewer, I am providing you with the attached correspondence pertaining to an allegation of an unauthorized disposition of federal records at DoD's Defense Health Agency (UD 2021 0019). Please email me your response no later than Thursday, April 1, 2021. Also, if you have any questions, please let me know.

Thank you,

Jametta Davis

--

Jametta A. Davis, Ph.D.

Records Management Oversight and Reporting Division (ACO2)

National Archives and Records Administration

Re: Invitation: UD/FOIA Cases @ Thu Feb 18, 2021 2pm - 2:30pm (EST)
(hannah.bergman@nara.gov)

Evangela Wimbu h Jeffrey evangela.wimbu_h.jeffrey@nara.gov

Wed, Mar 3, 2021 at 1 25 PM

To: "Bergman, Hannah" <Hannah.Bergman@nara.gov>, Jeannette Wise <jeannette.wise@nara.gov>Cc: Jametta Davis <jametta.davis@nara.gov>

Good afternoon,

I was wondering if you had an opportunity to look at these documents and offer guidance as to what information NARA (ACO2) can release to an agency to assist them in investigating allegations of unauthorized dispositions. Normally, when we receive allegations, we write to the agency requesting that they look into the matter but recently we have had agencies to request, from us, the information that we received from the person making the allegation. Thank!

Evangela C. Wimbush-Jeffrey | Records Management Oversight & Reporting
National Archives and Records Administration | Office of the Chief Records Officer
(301) 837-0730 (Office) | (b) (6) (Cell) | evangela.wimbush-jeffrey@nara.gov

On Wed, Feb 24, 2021 at 3:50 PM Jametta Davis <jametta.davis@nara.gov> wrote:

Hello Hannah,

Please see the following email documentation that was submitted to NARA to initiate recent UD cases:

UD-2021-0017 (UD open letter also attached, agency awaiting additional details) [2021-02-17_UD-2021-0017_DOD NAVY_Open Letter_13...](#) [2021-01-25_UD-2021-0017_DOD NAVY_RUD_2.pdf](#) [2021 01 18 UD 2021 0017 DOD Navy RUD pdf](#)**UD-2021-0018** (UD open correspondence still under review) [2021-01-25_UD-2021-0018_DOD-DHA_RUD.pdf](#)**UD-2021-0019** (UD open correspondence still under review) [2021-01-16_UD-2021-0019_DOD-DHA_RUD.pdf](#)**UD-2021-0020** (UD open correspondence still under review) [2021-01-31_UD-2021-0020_DOD-DHA_RUD.pdf](#)

The above represent the most recent UD cases that have been opened in response to the individual's allegations. For an earlier case, UD-2021-0004 (NAVY), the allegation was submitted in a similar format. Upon opening the case, the Navy was provided with the allegation portion only minus the name of the individual and supporting documentation/attachments were not provided.

Thanks,
Jametta

On Tue, Feb 23, 2021 at 1:25 PM Hannah Bergman <Hannah.Bergman@nara.gov> wrote:
Hi Evangela and everyone,

I wanted to circle back on the whistleblower question. Can you share the emails that we were talking about and that you want to share with the agency? I think this is likely fine but I would just like to take a quick look. Also, this person was not an employee of the other agency, correct?

Hannah

On Wed, Feb 17, 2021 at 1:43 PM Evangela Wimbush-Jeffrey <evangela.wimbush-jeffrey@nara.gov> wrote:

You have been invited to the following event.

UD/FOIA Cases

When Thu Feb 18, 2021 2pm – 2:30pm Eastern Time - New York

[more details »](#)

Joining info Join with Google Meet
meet.google.com/pyn-sbpe-fxa

Join by phone

(b) (7)(E)

[More phone number](#)

Calendar hannah.bergman@nara.gov

Who

- evangela.wimbush-jeffrey@nara.gov - organizer
- jeannette.wise@nara.gov
- jametta.davi@nara.gov
- hannah.bergman@nara.gov
- donald.rosen@nara.gov
- laurence.brewer@nara.gov

The purpose of this meeting is to determine what documentation NARA can and cannot provide to an agency, to assist with investigating an UD, when the person making the allegation is a whistleblower.

Going (hannah.bergman@nara.gov)? **Yes** - **Maybe** - **No** [more options »](#)

Invitation from [Google Calendar](#)

You are receiving this email at the account hannah.bergman@nara.gov because you are subscribed for invitations on calendar hannah.bergman@nara.gov.

To stop receiving these emails, please log in to <https://calendar.google.com/calendar/> and change your notification settings for this calendar

Forwarding this invitation could allow any recipient to send a response to the organizer and be added to the guest list, or invite others regardless of their own invitation status, or to modify your RSVP. [Learn More](#).

NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0019)

Ortiz, Luz D CIV WHS ESD (USA) luz d ortiz civ@mail mil

Fri, Mar 12, 2021 at 5 37 PM

To: Jametta Davis <jametta.davis@nara.gov>

Cc: "Welch, Sebastian" <sebastian.welch@nara.gov>, "Hawkins, Margaret" <margaret.hawkins@nara.gov>, "McCully, Ronald R Jr CIV WHS ESD (USA)" (b) (6)

Ms. Davis,

In response to the unauthorized disposition the DHA Records Manager did not find any instance of the destruction of records and has identified the case file for the request Mr Paul T Cygnarowicz from the Office of the General Counsel is representing the DHA in a law suit and has provided the response below:

Complainant/Plaintiff Mr. Robert Hammond has filed hundreds of FOIA requests, FOIA appeals, Privacy Act complaints, Congressional inquiries, and other forms of complaints with the Department of Defense, Defense Health Agency, and other related departments. As a matter of course, he routinely provides notice to preserve records related to his requests.

The Defense Health Agency and the Walter Reed National Military Medical Center replied to Mr. Hammond and provided responsive records when available The Government has not engaged in the purposeful destruction of records Plaintiff's complaints the Government must have destroyed a record they have not produced to his satisfaction - lack merit.

The issues raised with National Archives and Records Administration surrounding Plaintiff's FOIA appeals in 2014 are part of Plaintiff's active litigation, *Hammond v. Department of Defense, et al.*, No. 1:16-cv-00421, in the in the United States District Court for the District of Columbia. The Government has exhausted FOIA searches and provided Plaintiff with all records available. The Government denies it violated the Privacy Act because it retains the same record Plaintiff alleged was once lost

Please feel free to contact him directly on this matter his contact information is provided below:

Paul T. Cygnarowicz

Office of the General Counsel

Office 3M215

Defense Health Agency

7700 Arlington Blvd

Falls Church, VA 22042

(b) (6) (Direct)

703-681-6012 (Office)

(b) (6)

Regards,

Mrs Luz D Ortiz

DoD/WHSESD/

Chief, Records and Declassification Div

OSD Records Administrator

Office (571) 372 0478

Gov Cell: (b) (6)

Records & Declass Mailbox: whs.mc-alex.esd.mbx.records-and-declassification@mail.mil

Comments: <https://ice.disa.mil/index.cfm?fa=card&sp=139870>

From: Jametta Davis <jametta.davis@nara.gov>

Sent: Tuesday, March 2, 2021 11:36 AM

To: Ortiz, Luz D CIV WHS ESD (USA) <luz.d.ortiz.civ@mail.mil>

Cc: Welch, Sebastian ebastian.welch@nara.gov ; Hawkins, Margaret margaret.hawkin@nara.gov

Subject: [Non-DoD Source] NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD 2021 0019)

Dear Ms. Ortiz,

[Quoted text hidden]

NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0019)

Evangela Wimbu h Jeffrey evangela.wimbu.h.jeffrey@nara.gov

Mon, Mar 15, 2021 at 9 20 AM

To: Jametta Davis <jametta.davis@nara.gov>, Donald Rosen <donald.rosen@nara.gov>

Good morning,

I have included Don on this to see how we should move forward. However, I think that this is sufficient to close out all three cases. We have a number of meetings today but will make time to discuss this matter. Please place this on "hold" for now. Thanks!

Evangela C. Wimbush-Jeffrey | Records Management Oversight & Reporting

National Archive and Record Administration | Office of the Chief Record Officer

(301) 837-0730 (Office) (b) (6) (Cell) | evangela.wimbush-jeffrey@nara.gov

On Mon, Mar 15, 2021 at 8 43 AM Jametta Davis <jametta.davis@nara.gov> wrote

Good Morning Evangela,

DHA has provided the same response for each of its UD's 2021-0018, 0019, 0020 and advised NARA to reach out to DHA's GC for further assistance. This is not our usual process. Based on the detail provided, please advise.

Thanks,
Jametta

----- Forwarded message -----

From: **Ortiz, Luz D CIV WHS ESD (USA)** <luz.d.ortiz.civ@mail.mil>

Date: Fri, Mar 12, 2021, 5 37 PM

Subject: RE: [Non-DoD Source] NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0019)

To: Jametta Davis <jametta.davis@nara.gov>

Cc: Welch, Sebastian <sebastian.welch@nara.gov>, Hawkins, Margaret <margaret.hawkins@nara.gov>, McCully, Ronald R Jr CIV WHS ESD (USA) (b) (6)

Ms. Davis,

In response to the unauthorized disposition, the DHA Records Manager did not find any instance of the destruction of records and has identified the case file for the request. Mr. Paul T. Cygnarowicz from the Office of the General Counsel is representing the DHA in a lawsuit and has provided the response below:

Complainant/Plaintiff Mr. Robert Hammond has filed hundreds of FOIA requests, FOIA appeals, Privacy Act complaints, Congressional inquiries, and other forms of complaints with the Department of Defense, Defense Health Agency, and other related departments. As a matter of course, he routinely provides notice to preserve records related to his requests.

The Defense Health Agency and the Walter Reed National Military Medical Center replied to Mr. Hammond and provided responsive records when available. The Government has not engaged in the purposeful destruction of records. Plaintiff's complaints the Government must have destroyed a record they have not produced to his satisfaction lack merit

The issues raised with National Archives and Records Administration surrounding Plaintiff's FOIA appeals in 2014 are part of Plaintiff's active litigation, *Hammond v. Department of Defense, et al.*, No. 1:16-cv-00421, in the in the United States District Court for the District of Columbia. The Government has exhausted FOIA searches and provided Plaintiff with all records available. The Government denies it violated the Privacy Act because it retains the same record Plaintiff alleged was once lost.

Please feel free to contact him directly on this matter his contact information is provided below

Paul T. Cygnarowicz

Office of the General Counsel

Office 3M215

Defense Health Agency

7700 Arlington Blvd

Falls Church, VA 22042

(b) (6) (Direct)

703-681-6012 (Office)

(b) (6)

Regards,

Mrs. Luz D. Ortiz

DoD/WHs/ESD/

Chief, Records and Declassification Div

OSD Records Administrator

Office: (571) 372-0478

Gov Cell (b) (6)

Records & Declass Mailbox: whs.mc-alex.esd.mbx.records-and-declassification@mail.mil

Comments: <https://ice.disa.mil/index.cfm?fa=card&sp=139870>

From: Jametta Davis <jametta.davis@nara.gov>
Sent: Tuesday, March 2, 2021 11:36 AM
To: Ortiz, Luz D CIV WHS ESD (USA) <luz.d.ortiz.civ@mail.mil>
Cc: Welch, Sebastian <sebastian.welch@nara.gov>; Hawkins, Margaret <margaret.hawkins@nara.gov>
Subject: [Non-DoD Source] NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0019)

Dear M Ortiz,

On behalf of the Chief Record Officer for the United State Government, Laurence Brewer, I am providing you with the attached correspondence pertaining to an allegation of an unauthorized disposition of federal records at DoD's Defense Health Agency (UD-2021-0019). Please email me your response no later than Thursday, April 1, 2021. Also, if you have any questions, please let me know.

Thank you,

Jametta Davis

--

Jametta A. Davis, Ph.D.

Records Management Oversight and Reporting Division (ACO2)

National Archives and Records Administration

Re: docket alert for case

Hannah Bergman <Hannah.Bergman@nara.gov>

Fri, Mar 19, 2021 at 4:04 PM

To: Jeannette Wise <jeannette.wise@nara.gov>, "Davis, Jametta" <jametta.davis@nara.gov>

Hi,

Thank you! Can you also send it to Jametta Davis, cc'd on this email?

Jametta, once Jeannette sets up this docket alert, we will get an email whenever there is a decision in this case.

Hannah

On Fri, Mar 19, 2021 at 2:33 PM Jeannette Wise <jeannette.wise@nara.gov> wrote:

Sure Anyone you want to get the alert be ide you?

Jeannette Wise
Director of Litigation
Office of General Counsel (NGC)
National Archives and Records Administration
[8601 Adelphi Road, Suite 3110](#)
[College Park, MD 20740 6001](#)
Phone: (301) 837-1499
Fax: (301) 837-0293
E-mail: jeannette.wise@nara.gov

Confidentiality Statement:

This message is transmitted to you by the Office of General Counsel of the National Archives and Records Administration. The message, along with any attachments, may be confidential and legally privileged. If you are not the intended recipient of this message, please destroy it promptly without further retention or dissemination (unless otherwise required by law). Please notify the sender of the error by a separate e mail or by calling (301) 837 1499.

On Fri, Mar 19, 2021 at 2:31 PM Hannah Bergman <Hannah.Bergman@nara.gov> wrote:

Hi,

Can you do a docket alert for this DHA case which is related to an unauthorized destruction case ?

Hammond v DOD,
1:16-cv-00421-KBJ

in DDC

Hannah

NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0019)

Jametta Davi [jametta davi @nara gov](mailto:jametta.davi@nara.gov)

Fri, Mar 26, 2021 at 2 33 PM

To: "Ortiz, Luz D CIV WHS ESD (USA)" <luz.d.ortiz.civ@mail.mil>

Thank you for your response. Due to the ongoing litigation relating to this case, NARA has determined that UD-2021-0019 will remain open until the litigation is closed. If you have any questions or concerns, please feel free to contact Laurence Brewer at [laurence brewer@nara gov](mailto:laurence.brewer@nara.gov)

Thanks,

[Quoted text hidden]

NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0019)

Jametta Davi [jametta davi @nara gov](mailto:jametta.davi@nara.gov)

Fri, Mar 26, 2021 at 2 33 PM

To: "Ortiz, Luz D CIV WHS ESD (USA)" <luz.d.ortiz.civ@mail.mil>

Thank you for your response. Due to the ongoing litigation relating to this case, NARA has determined that UD-2021-0019 will remain open until the litigation is closed. If you have any questions or concerns, please feel free to contact Laurence Brewer at [laurence brewer@nara gov](mailto:laurence.brewer@nara.gov)

Thanks,

[Quoted text hidden]

Defense Health Agency (UD-2021-0018 through 20)

Evangela Wimbush-Jeffrey <evangela.wimbush-jeffrey@nara.gov>

Tue, Mar 30, 2021 at 12:19 PM

To: Laurence Brewer <laurence.brewer@nara.gov>

Cc: Donald Rosen <donald.rosen@nara.gov>, Jametta Davis <jametta.davis@nara.gov>

Good afternoon,

We will make the update. Thanks!

Evangela C. Wimbush-Jeffrey | Records Management Oversight & Reporting
National Archive and Record Administration | Office of the Chief Record Officer
(301) 837-0730 (Office) | (b) (6) (Cell) | evangela.wimbush-jeffrey@nara.gov

On Tue, Mar 30, 2021 at 11:33 AM Laurence Brewer <laurence.brewer@nara.gov> wrote

That would work, we already have a case (like the ICE case) where we say on the website "ongoing litigation".

On Tue, Mar 30, 2021 at 9:57 AM Evangela Wimbush-Jeffrey <evangela.wimbush-jeffrey@nara.gov> wrote:

Good morning,

Another response (concern) from Ms. Ortiz. Thanks!

"Thank you for additional review. My concern is that future litigants may go to NARA with such allegations, if records they considered should exist (be created) at the agency are not produced. I discussed with our DoD GC, his recommendation was to ask you (NARA) if the allegation could have a caveat on your website "Due to pending litigation."-- if this is NARA's decision after additional review."

Evangela C. Wimbush-Jeffrey | Records Management Oversight & Reporting
National Archive and Record Administration | Office of the Chief Record Officer
(301) 837-0730 (Office) | (b) (6) (Cell) | evangela.wimbush-jeffrey@nara.gov

On Mon, Mar 29, 2021 at 7:36 AM Evangela Wimbush-Jeffrey <evangela.wimbush-jeffrey@nara.gov> wrote

Good morning,

Ms. Ortiz was informed that these cases would remain open until the litigation is closed. She has responded that "DHA Record Manager has stated the records have not been destroyed, they have the case file for their litigation. These allegations should be closed."

Here is how the DHA responded initially to the allegations. Please advise on how we should move forward with this. Thank !

Evangela C. Wimbush-Jeffrey | Records Management Oversight & Reporting
National Archives and Records Administration | Office of the Chief Records Officer
(301) 837 0730 (Office) | (b) (6) (Cell) | evangela.wimbushjeffrey@nara.gov

--

Laurence Brewer, CRM
Chief Records Officer for the U.S. Government
National Archives and Records Administration
Laurence.Brewer@nara.gov
Office: (301) 837-1539
Cell: (b) (6)
Blog: [Records Express](#)



NARA Unauthorized Disposition Complaint. Alteration & Destruction of Records
ICO FOIA Request #14-R to Walter Reed

I. ALLEGATIONS

I am alleging that:

1. The Walter Reed National Military Medical Center (“Walter Reed” or “WRNMMC”) FOIA Officer, **Judy J. Bizzell**, during or prior to litigation¹, destroyed original records related to my FOIA Request WRNMC #14-R of April 28, 2014 or they are in eminent danger of being destroyed.
2. Ten other persons may have similarly destroyed such FOIA records, two of whom (Henry and Roush) were not Walter Reed employees.
3. **Judy J. Bizzell** materially altered during litigation evidentiary Court records related to my FOIA Request WRNMC #14-R.

While Walter Reed is currently a subordinate entity of Defense Health Agency (DHA), they each have their own accountable records officers/managers.

II. ACTIONS SOUGHT

1. Notify WRNMMC within 5 working days.
2. Provide me a point of contact by return email to discuss this matter and clarify as needed.
3. Permit me to discuss the Agencies’ replies prior to deciding on this complaint to preclude the likely provision of misinformation, as has been done in the past.
4. Seek to recover records from Ms. Bizzell, ten other identified persons, back-up email servers, and from a DVD in the possession of Ms. Bizzell’s supervisor, Joseph E. Davidge.
5. If any records have not been destroyed, seek that Walter Reed provide to you each specifically enumerated record/record set in their possession. Absent the Accused Parties producing each specifically enumerated record/record set for your verification to prove their existence, NARA may be mis-lead (as DOD has done in the past, claiming that records were posted a website when they were not). There is already considerable evidence of inaccurate testimony and alteration of records by Accused Parties. They cannot be trusted, in my view.

III. IDENTIFICATION OF RECORDS

I sent my FOIA Request WRNMC 14-R to Judy Bizzell by email on 4/28/2014 5:36:58 AM (attached for NARA hereto as Hammond April 28, 2014 email, FOIA Request WRNMC #14-R).

My 4/28/2014 5:36:58 AM email contained my 23-page FOIA request as an attachment and identifies that attachment as WSRNMC 14 -R.pdf (attached for NARA hereto).²

¹ Case 16-421 KBJ in the District Court of Colombia. All records are available from PACER.gov.

² If Walter Reed disputes the authenticity of the true 23-page attachment (WSNMRC 14 -R.pdf), I am prepared to provide NARA my original MS Outlook email with that attachment to confirm from its metadata the authenticity of the email and the attachment WSNMRC 14 -R.pdf, which Ms. Bizzell altered during litigation. The file properties

During litigation, Ms. Bizzell cited as a responsive litigation record her email of May 23, 2014 forwarding my 4/28/2014 5:36:58 AM email (Subject: FOIA Request WRNMC #14-R) with my attachment thereto to [at least] nine persons. In her May 23, 2014 email, Ms. Bizzell seeks responses from addressees related to that FOIA Request WRNMC #14-R. [Second Bizzell Declaration, ECF 18-1 ¶22; Third Bizzell Declaration, ECF 25-2 at 15 n.4.]

Ms. Bizzell also cited during litigation her May 30, 2014 follow-up to her May 23, 2014 email.

The nine persons to whom Ms. Bizzell sent her May 23, 2014 7:30 PM email, who would also have Ms. Bizzell's original May 23, 2014 email with attachment thereto include:

1. Franz, Charles P US CPT USA;
2. Moidel, Barbara I CIV US WRNMMC;
3. Floyd, Cornell J CIV US WRNMMC;
4. Logeman, Judy A CIV US WRNMMC;
5. Davidge, Joe E CIV US WRNMMC;
6. McCall, Thurman S CTR US WRNMMC;
7. Roush, Matthew R LT OJAG, Code 14 (matthew.roush@navy.mil);
8. Henry, Kurt A. CAPT BUMED;
9. Bernstein, Dina L CIV US WRNMMC.

A tenth person, Brice A. Goodwin ((b) (6)), is also alleged to have potentially received Ms. Bizzell's May 23, 2014 7:30 PM email either as a blind copy or through separate forwarding.

After Ms. Bizzell's Third Declaration (wherein Ms. Bizzell inaccurately stated that certain records had been produced or promised to release records but did not do so), the Court ordered me (Plaintiff) to identify all outstanding records that Defendants had not produced and ordered Defendants (Walter Reed, et. al.) to produce them. [Dkt. Nos. 29 and 30]. With respect to my FOIA Request WRNMC #14-R, such records that Walter Reed was to produce (but has not, and may have then been destroyed based on Ms. Bizzell's sworn Fourth Declaration) include:

- *Original email from Judy Bizzell dated May 23, 2014 [see ECF 18-1 ¶22] and attachment(s) thereto. See ECF 25-2 at 15 n.4.*
- *Original email from Ms. Bizzell dated May 23, 2014, 7:29:39 PM, including any blind copy addressees or attachments thereto. See supra § I.*
- *Any and all email responses to Ms. Bizzell's May 23, 2014 email, including subsequent correspondence related thereto, and in particular from (1) Charles P. Franz, US CPT USA; (2) Cornell J. Floyd, CIV US WRNMMC; (3) Matthew R. Roush, LT OJAG, Code 14 (matthew.roush@navy.mil); (4) Dina L. Bernstein, CIV US WRNMMC; (5) Joe E. Davidge, CIV US WRNMMC; and (6) Brice A. Goodwin (Brice.A.Goodwin.mil@health.mil).*

of the records that I am providing NARA (WSNMRC 14 -R.pdf), shows that it was created 4/28/2014 at 5:36.42 AM, sixteen seconds before my email.

- *Ms. Bizzell's contemporaneous notes and any other records related to her May 30, 2014 follow-up to her May 23, 2014 email.*

Records destroyed and/or potential false statements under oath.

1. **Records destroyed:** *"Original email from Judy Bizzell dated May 23, 2014 [see ECF 18-1 ¶22] and attachment(s) thereto.1 See ECF 25-2 at 15 n.4."*
 - a. Walter Reed's FOIA Officer, Judy Bizzell, stated that **under oath** that she could not locate her Original May 23, 2014 email, meaning, if true, she **personally destroyed** her original email (subject to FOIA records retention), as evidently did all nine or ten recipients of that email.
 - b. Fourth Bizzell Declaration ¶ 5 states: *"Plaintiff requested 'the Original email from Judy Bizzell dated May 23, 2014 [see ECF 18-1 ¶ 22] and any attachments thereto. This email was referenced in Third Bizzell Declaration ¶27, note 4. After a thorough search of the agency's shared system, **I cannot locate the original email** I sent. A copy of this email embodied in a response emails is attached as Exhibit D, along with the document I know I attached to my May 23, 2014 email."*
 - c. As Ms. Bizzell admits, *"Exhibit D"* is not the original email. It is a confused response to Ms. Bizzell from Ms. Logeman, *"I don't completely understand item #1."*
 - d. I am including for NARA a copy of Ms. Bizzell's cited Dkt. No. 32-7, Exhibit D.
 - e. Note, Ms. Bizzell's alleged "attachment" to her May 23, 2014 email at Exhibit D is discussed separately below under "alteration of records."
2. **Records destroyed:** *"Original email from Ms. Bizzell dated May 23, 2014, 7:29:39 PM, including any blind copy addressees or attachments thereto. See supra § I."*
 - a. In her response regarding this record, Ms. Bizzell falsely states under oath that she provided the records as her "Exhibit D," even though, in contradiction (as identified above), she states under oath in Fourth Bizzell Declaration ¶ 5 that she did **not** provide the *"original email including blind copies or attachments thereto"* as her Exhibit D.
 - b. Fourth Bizzell Decl. ¶ 16, addressing Paragraph F of Plaintiff's List of Outstanding Records, falsely states, *"The email referenced in bullet number two, dated May 23, 2014 is attached as Exhibit D."* Bizzell's statement is materially false.
 - c. I am including for NARA a copy of Ms. Bizzell's cited Dkt. No. 32-7, Exhibit D.
 - d. Note, Ms. Bizzell's alleged "attachment" to her May 23, 2014 email at Exhibit D is discussed separately below under alteration of records.
3. **Records destroyed:** *"Any and all email responses to Ms. Bizzell's May 23, 2014 email, including subsequent correspondence related thereto, and in particular from (1) Charles P. Franz, US CPT USA; (2) Cornell J. Floyd, CIV US WRNMMC; (3) Matthew R. Roush, LT OJAG, Code 14 (matthew.roush@navy.mil); (4) Dina L. Bernstein, CIV US WRNMMC; (5) Joe E. Davidge, CIV US WRNMMC; and (6) Brice A. Goodwin (Brice.A.Goodwin.mil@health.mil)."*
 - a. Ms. Bizzell falsely states under oath that she provided the records as her "Exhibit G."

- b. Exhibit G does not contain any records whatsoever related to the six “*in particular*” persons identified in records sought (i.e., Franz, Floyd, Roush, Bernstein, Davidge, Goodwin).
 - c. Exhibit G does contain an May 27, 2014 11:03:44 AM confirmed receipt from Logeman, Judy A CIV US WRNMMC to a May 27, 2014 10:35:00 email from Ms. Bizzell, “Subject: **RE:** FOIA Request WRNMC #14-R,” documenting that Ms. Bizzell replied to Ms. Logeman’s earlier May 24, 2014 10:36:28 AM email to Ms. Bizzell. Ms. Bizzell has not released her May 27, 2014 10:35:00 AM email to Ms. Logeman, “Subject: **RE:** FOIA Request WRNMC #14-R” that Logeman confirmed receipt (Dkt. No. 32-9, Exhibit G at 8). Bizzell’s and Logeman’s copies of that Bizzell May 27, 2014 10:35:00 AM email to Logeman are alleged to have been destroyed, based on Ms. Bizzell’s sworn Fourth Declaration. Any additional correspondence, such as a subsequent reply from Logeman to Bizzell, is also presumed destroyed.
 - d. Relevant correspondence between Bizzell and the nine persons identified in her May 23, 2014 email (plus Goodwin) is presumed destroyed or in danger of being destroyed.³
4. **Records destroyed:** “*Ms. Bizzell’s contemporaneous notes and any other records related to her May 30, 2014 follow-up to her May 23, 2014 email.*”
- a. Bizzell recalled the exact date of her *May 30, 2014 follow-up to her May 23, 2014 email* three years later in her sworn Second Bizzell Declaration of February 26, 2017.
 - b. When ordered by the Court to produce such records, Bizzell then states under oath (unbelievably) that she cannot locate these records. They are therefore presumed destroyed (unless produced to NARA).
 - c. Fourth Bizzell Decl. ¶ 16 states, “*I searched my computer and hard copy documents for any responsive records of this type and located none.*”
 - d. In addition to Bizzell, the ten above named parties would also have such records.

Bizzell’s alteration of records during Court proceedings – FOIA Request #14-R (WSRNMC 14 -R.pdf).

Judy, J. Bizzell, during litigation, altered records by substituting an attachment to my April 28, 2014 5:37 AM email to her (true attachment “WSRNMC 14 -R.pdf”) with a different record (presumed to be FOIA WRNMC 14 B- L.pdf) and then swore under oath to the authenticity of the improperly substituted, false record (stating it was “*the document I know I attached to my May 23, 2014 email,*”) to produce a materially altered evidentiary record for the Court. [Dkt. No. 32-7, Exhibit D, pages 3 – 25 (altered Court evidentiary record)].

³ Exhibit G also contains a May 22, **2017** 5:20:25 PM email at the last page (page 9) that has nothing whatsoever to do with this matter. That 2017 email (from Walter Reed’s Mail Services Supervisor, [Gulley, Meki C CIV USN NSA BETHESDA MD \(US\) to Bizzell, Judy J CIV DHA NCR MEDICAL DIR \(US\)](#) Cc: [Cygnarowicz, Paul T CIV \(US\)](#) Subject: Requested Tracking Numbers) deals instead with alleged destruction of mailroom and other records subject to a separate FOIA request related to certified packages. Ms. Bizzell (apparently in coordination with Agency Counsel Paul t. Cygnarowicz) made a seeming false statement under oath claiming this to be a record of “*email responses to Ms. Bizzell’s May 23, 2014 email ...*” In doing so, Bizzell/Cygnarowicz deceptively bury evidence related to that separate matter.

As noted, Ms. Bizzell's May 23, 2014 email forwarded to nine persons (and potentially to Brice Goodwin) my April 28, 2014 5:37 AM email to her with my true attached FOIA request (WSRNMC 14 -R.pdf). The subject of Bizzell's May 23, 2014 email is "Subject **FW:** FOIA Request WRNMC #14-R." [Dkt. No. 32-7. Exhibit D at page 2].

However, the record that Bizzell states under oath is "*the document I know I attached to my May 23, 2014 email,*" is NOT my 23-page FOIA request (WSRNMC 14 -R.pdf) attached to my April 28, 2014 5:37 AM email. For Ms. Bizzell to have forwarded the attachment that she cites (which has no relationship to my FOIA request #14-R), she would have had to first physically removed the true attachment to my email (WSRNMC 14 -R.pdf). Original records of Ms. Bizzell's May 23, 2014 email with my true attached email should document instead that Ms. Bizzell altered Court evidentiary records by creating a new, altered record (Dkt. No. 32-7. Exhibit D) with the false attachment appended to a copy of my April 28, 2014 email to her, and she then falsely swore under oath as to the authenticity of the altered record (Dkt. No. 32-7, Exhibit D at 3 (copy of my April 28, 2014 5:37 AM email to Ms. Bizzell, Subject: FOIA Request WRNMC #14-R); Dkt. No. 32-7, Exhibit D at 4 -25 (materially altered false record attachment).

The false attachment deals with several different FOIA requests (WRNMC #14-B thru WRNMC #14-L) and not with FOIA Request WRNMC #14-R. The narrative of Ms. Bizzell's May 23, 2014 email forwarding my April 28, 2014 5:37 AM email matches the true attachment (WSRNMC 14 -R.pdf), not the altered record entered in Court evidence by her.

Significantly, my FOIA Request WRNMC #14-R seeks records related to an alleged 2013 Privacy Act violation by Ms. Bizzell's supervisor, Joseph E. Davidge. In addition to being Ms. Bizzell's supervisor, Mr. Davidge is Walter Reed's Privacy Compliance Administrator, responsible for investigating alleged Privacy Act violations/complaints and reporting them to Congress.⁴ ("Joe Davidge, Special Assistant to the Commander, Privacy Compliance Administrator, Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office, Walter Reed National Military Medical Center"). The subject of my FOIA Request WRNMC #14-R is, "*Disclosures Related to[email] From: Joe.E.Davidge.civ@health.mil email Sent: 12/11/2013 6:15:44 P.M. Eastern Daylight Time, Subj: RE: Medical records.*" In as much as the instant litigation deals, in part, with another Privacy Act violation and the accuracy/inaccuracy of Privacy Act reporting generally, there appears to be strong motivation for Ms. Bizzell and her supervisor, Joseph E. Davidge, to keep the true attachment of my FOIA Request #14-R from the Court.

Nevertheless, the records that I am providing you of my original April 28, 2014 5:37 AM email and the original attachment thereto (WSRNMC 14 -R.pdf) are sufficient to incontrovertibly document that Ms. Bizzell materially altered Court evidentiary records. Matters of intent and participation by others may be appropriate for referral to/review in a different venue.

Additional copy of my original April 28, 2014 5:37 AM email via DVD.

In addition to sending my April 28, 2014 5:37 AM email with my attached FOIA Request WRNMC #14-R, (WSRNMCMC 14 -R.pdf), I provided Ms. Bizzell copies of my emails to a point in time via DVD on 2/11/2016 in certified package 7012 1640 0000 9665 4500 with restricted delivery to her. Ms. Bizzell's supervisor, Joseph E. Davidge, purportedly took custody of that certified package, even though it was sent restricted delivery to Ms. Bizzell. NARA's inquiry should address whether Walter Reed also destroyed the DVD copy of my original April 28, 2014 5:37 AM email with its attachment.

Multiple notices to preserve records. I have provided Walter Reed and DHA numerous notices to preserve all records related to my FOIA Request WRNMC #14-R, should there be any dispute about that requirement. Nevertheless, here I am addressing records in active litigation that have allegedly been destroyed and/or altered.

IV. APPLICABLE RETENTION SCHEDULE, NARA GRS 4.2 Item 20

020	Access and disclosure request files. Case files created in response to requests for information under the Freedom of Information Act (FOIA), Mandatory Declassification Review (MDR) process, Privacy Act (PA), Classification Challenge, and similar access programs, and completed by: • granting the request in full • granting the request in part • denying the request for any reason including: o inability to fulfill request because records do not exist o inability to fulfill request because request inadequately describes records o inability to fulfill request because search or reproduction fees are not paid	Temporary. Destroy 6 years after final agency action or 3 years after final adjudication by the courts, whichever is later, but longer retention is authorized if required for business use.	DAA-GRS-2016-0002-0001
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V. 32 CFR PART 286—DOD FREEDOM OF INFORMATION ACT (FOIA) PROGRAM

32 CFR §286.6 Preservation of records.

Each DoD Component shall preserve all correspondence pertaining to the requests that it receives under this part, as well as copies of all requested records, until disposition or destruction is authorized pursuant to title 44 of the United States Code or the General Records Schedule 4.2 of the National Archives and Records Administration (NARA). Records shall not be disposed of or destroyed while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

VI. 36 CFR § 1230. UNLAWFUL OR ACCIDENTAL REMOVAL, DEFACING, ALTERATION, OR DESTRUCTION OF RECORDS

36 CFR § 1230.3

Unlawful or accidental destruction (also called unauthorized destruction) means disposal of an unscheduled or permanent record; disposal prior to the end of the NARA-approved retention

period of a temporary record (other than court-ordered disposal under § 1226.14(d) of this subchapter); and disposal of a record subject to a **FOIA request**, litigation hold, or any other hold requirement to retain the records.

VII. 44 U.S. CODE § 3106 - UNLAWFUL REMOVAL, DESTRUCTION OF RECORDS

(a) FEDERAL AGENCY NOTIFICATION.—

The head of each Federal agency shall notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, corruption, deletion, erasure, or other destruction of records in the custody of the agency, and with the assistance of the Archivist shall initiate action through the Attorney General for the recovery of records the head of the Federal agency knows or has reason to believe have been unlawfully removed from that agency, or from another Federal agency whose records have been transferred to the legal custody of that Federal agency.

(b) ARCHIVIST NOTIFICATION.—

In any case in which the head of a Federal agency does not initiate an action for such recovery or other redress within a reasonable period of time after being notified of any such unlawful action described in subsection (a), or is participating in, or believed to be participating in any such unlawful action, the Archivist shall request the Attorney General to initiate such an action and shall notify the Congress when such a request has been made.

([Pub. L. 90–620](#), Oct. 22, 1968, [82 Stat. 1298](#); [Pub. L. 98–497](#), title I, [§ 107\(b\)\(21\)](#), title II, [§ 203\(b\)](#), Oct. 19, 1984, [98 Stat. 2290](#), 2294; [Pub. L. 113–187](#), [§ 4](#), Nov. 26, 2014, [128 Stat. 2009](#).)

VIII. 18 U.S. Code § 1519 - Destruction, alteration, or falsification of records

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both. 18 U.S. Code § 1519 - Destruction, alteration, or falsification of records. (Added Pub. L. 107–204, title VIII, §802(a), July 30, 2002, 116 Stat. 800.).

IX. 18 U.S.C. 641 and 2071. The penalties for the unlawful or accidental removal, defacing, alteration, or destruction of Federal records or the attempt to do so, include a fine, imprisonment, or both (18 U.S.C. 641 and 2071).

This is unauthorized disposition complaint is submitted upon presumption, belief, and records available to me.

Thank you for your integrity and your careful review of these matters.

With my respect,

/s/

Robert Hammond
Whistleblower

Included records for NARA:

- Hammond April 28, 2014 email, FOIA Request WRNMC #14-R
- FOIA WSRNMC 14 -R.pdf [attached to April 28, 2014 email]
- Dkt. No. 32-7, Exhibit D
- Dkt. No. 32-9, Exhibit G

Exhibit G

From: [Logeman, Judy A CIV US WRNMMC](#)
To: [Bizzell, Judy J CIV US WRNMMC](#)
Subject: RE: FOIA Request WRNMC #14-R
Date: Saturday, May 24, 2014 10:36:28 AM

Judy,

I do not completely understand item #1.

V/R

Judy

Judy A. Logeman

Healthcare Resolutions Program
Walter Reed National Military Medical Center
8900 Wisconsin Ave
Bethesda, MD 20889-0001

O: 301.400.2763

BB: 202.290.7271

judy.a.logeman.civ@health.mil

-----Original Message-----

From: Bizzell, Judy J CIV US WRNMMC

Sent: Friday, May 23, 2014 7:30 PM

To: Franz, Charles P US CPT USA; Moidel, Barbara I CIV US WRNMMC; Floyd, Cornell J CIV US WRNMMC; 'Logeman, Judy A CIV US WRNMMC'; 'matthew.'; Davidge, Joe E CIV US WRNMMC; McCall, Thurman S CTR US WRNMMC; Logeman, Judy A CIV US WRNMMC; Floyd, Cornell J CIV US WRNMMC; Roush, Matthew R LT OJAG, Code 14 (matthew.rous@navy.mil); Henry, Kurt A. CAPT BUMED; Bernstein, Dina L CIV US WRNMMC

Cc: Bizzell, Judy J CIV US WRNMMC

Subject: FW: FOIA Request WRNMC #14-R

Good evening all - Below and attached is a 20 page document from Mr. Robert Hammond. Of those pages, the FOIA request is actually only for the following:

1. "I am requesting all records of disclosure of the information in the emails to other than those listed on the email, to include any forwarding of

the email to another party by any of the addressees and any verbal disclosure by any of the addressees."

2. "I am requesting photocopies of the front side disk labels of both the original and the copy of the DVDs containing my medical records that are in WRNMMC FOIA Office custody and that each image be labeled as to whether it is the original that I provided to Ms. Logeman or the copy made for the FOIA Office."

You need only be concerned with item #1 as this office will answer Mr. Hammond on item #2.

This request, along with three others from Mr. Hammond was found in my "junk" mail box today. Your earliest response will be appreciated.

Respectfully,

Judy
(301) 400-2315
-----Original Message-----

(b) (6)

Sent: Monday, April 28, 2014 5:37 AM
To: Bizzell, Judy J CIV US WRNMMC
Subject: FOIA Request WRNMC #14-R

Dear Ms. Bizzell,

Please see attached. Your FAX machine is not connected.

With my respect,

Robert Hammond

From: [Moidel, Barbara I CIV US WRNMMC](#)
To: [Bizzell, Judy J CIV US WRNMMC](#)
Subject: Read: FW: FOIA Request WRNMC #14-R
Date: Friday, May 23, 2014 8:50:31 PM

Your message

To: Moidel, Barbara I CIV US WRNMMC
Subject: FW: FOIA Request WRNMC #14-R
Sent: Friday, May 23, 2014 7:29:39 PM (UTC-05:00) Eastern Time (US & Canada)
was read on Friday, May 23, 2014 8:50:30 PM (UTC-05:00) Eastern Time (US & Canada).

From: [Logeman, Judy A CIV US WRNMMC](#)
To: [Bizzell, Judy J CIV US WRNMMC](#)
Subject: Read: FW: FOIA Request WRNMC #14-R
Date: Saturday, May 24, 2014 7:13:54 AM

Your message

To: Logeman, Judy A CIV US WRNMMC
Subject: FW: FOIA Request WRNMC #14-R
Sent: Friday, May 23, 2014 7:29:39 PM (UTC-05:00) Eastern Time (US & Canada)
was read on Saturday, May 24, 2014 7:13:52 AM (UTC-05:00) Eastern Time (US & Canada).

From: [Henry, Kurt A. CAPT BUMED](#)
Subject: Read: FOIA Request WRNMC #14-R
Date: Monday, May 26, 2014 12:14:00 PM

Your message

To:
Subject: FOIA Request WRNMC #14-R
Sent: Monday, May 26, 2014 12:13:59 PM (UTC-05:00) Eastern Time (US & Canada)
was read on Monday, May 26, 2014 12:13:10 PM (UTC-05:00) Eastern Time (US & Canada).

From: [McCall, Thurman S CTR US WRNMMC](#)
To: [Bizzell, Judy J CIV US WRNMMC](#)
Subject: Read: FOIA Request WRNMC #14-R
Date: Tuesday, May 27, 2014 7:10:24 AM

Your message

To: McCall, Thurman S CTR US WRNMMC
Subject: FW: FOIA Request WRNMC #14-R
Sent: Friday, May 23, 2014 7:29:39 PM (UTC-05:00) Eastern Time (US & Canada)
was read on Tuesday, May 27, 2014 7:09:42 AM (UTC-05:00) Eastern Time (US & Canada).

From: [Logeman, Judy A CIV US WRNMMC](#)
To: [Bizzell, Judy J CIV US WRNMMC](#)
Subject: Read: RE: FOIA Request WRNMC #14-R
Date: Tuesday, May 27, 2014 11:03:44 AM

Your message

To: Logeman, Judy A CIV US WRNMMC
Subject: RE: FOIA Request WRNMC #14-R
Sent: Tuesday, May 27, 2014 10:35:00 AM (UTC-05:00) Eastern Time (US & Canada)
was read on Tuesday, May 27, 2014 11:03:43 AM (UTC-05:00) Eastern Time (US & Canada).

From: [Gulley, Meki C CIV USN NSA BETHESDA MD \(US\)](#)
To: [Bizzell, Judy J CIV DHA NCR MEDICAL DIR \(US\)](#)
Cc: [Cygnarowicz, Paul T CIV \(US\)](#)
Subject: Requested Tracking Numbers
Date: Monday, May 22, 2017 5:20:25 PM

Hello Ms. Bizzell,

In reference to tracking numbers 70121640 0000 9665 1035 and 7012 1640 0000 9665 4524, I was only able to locate the latter on which was delivered to WRNMMC on 30 Jan 2014. This was processed (4524) on 30 Jan 2014 addressed to

Judy Bizzell - FOIA. Command Secretariat's office handles the mail for FOIA. We only keep hard copy documentation on file for 2 years and 1 month, then it is shredded. I have thoroughly researched (1035) on numerous occasions , and have been in regular contact with Ms. Bizzell via telephone conversations. This office does not have any record of requested tracking number (1035).

V/r,

Ms. Gulley

(301) 295-4003

Robert Hammond

(b) (6)

April 26, 2014

Ms. Judy Bizzell
Freedom of Information Act (FOIA) Officer
Walter Reed National Military Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: FOIA Request – Disclosures Related to From: (b) (6) email
Sent: 12/11/2013 6:15:44 P.M. Eastern Daylight Time, Subj: RE: Medical records

Requester Control Number: FOIA WRNMC #14-R

References: (a) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records"
(b) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(c) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
(d) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation

Dear Ms. Bizzell,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 522. If you deny all or any part of this request, please cite each specific exemption you think justifies your refusal to release the information and notify me of appeal procedures available under the law.

By way of background, the email at the Attachment contains both my PHI/PII and information about my FOIA/PA requests. I am requesting all records of disclosure of the information in the emails to other than those listed on the email, to include any forwarding of the email to another party by any of the addressees and any verbal disclosure by any of the addressees.

I am requesting photocopies of the front side disk labels of both the original and the copy of the DVDs containing my medical records that are in WRNMMC FOIA Office custody and that each image be labeled as to whether it is the original that I provided to Ms. Logeman or the copy made for the FOIA Office.

I agree to pay fees for searching or copying the records up to \$400. If the fees exceed this amount please advise me of the cost. I am a private citizen seeking this information. I do not believe that there should be any charge for providing these records.

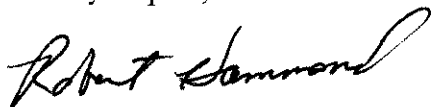
Please cite the requester control number and include a copy of this request in your reply. This request is an agency record in its own right and providing a copy of this request is an integral part of my FOIA request, which helps to ensure that you fully address my request. Do not reply to more than one requestor control number in a single letter.

Reference (a) states that for requests "that will require more than ten days for the agency to process to FOIA requires agencies to assign a tracking number to your request. Each agency must provide a telephone number or website by which a requester can use the assigned tracking number to obtain information about the status of a pending request." DoD 5400.11-R, May 14, 2007, paragraph C3.1.1O. states: "Time Limits. "DoD Components normally shall provide access within 20 working days after receipt of the request. If access cannot be given within the 20 working day period, the requester shall be notified in an interim response." Please provide me a tracking number for this request.

Reference (c) states, "DoD personnel are expected to comply with the FOIA, this Regulation, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust."

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request. If you deem that any portion of my request is unclear, answer the remaining portions and I will perfect a request for additional material as needed.

With my respect,

A handwritten signature in black ink, appearing to read "Robert Hammond". The signature is fluid and cursive, with the first name "Robert" and last name "Hammond" clearly distinguishable.

Robert Hammond

Attachment A

From: J (b) (6)

To: (b) (6), Judy.J.Bizzell.civ@health.mil, (b) (6)

CC: (b) (6)

(b) (6)

Sent: 12/11/2013 6:15:44 P.M. Eastern Daylight Time

Subj: RE: Medical records

Mr Hammond,

Good evening sir. We will not be processing these requests without receiving one consolidated request. As you stated in an email on 13 November 2013, "You did not intend to offend anyone and you recognized that multiple requests and additional follow ups are creating additional work for our department(s)." You furthermore stated that you would be willing to combine and/or withdraw some of the requests for the Freedom of Information Act, privacy Act requests and requests to the Patient Administration Department(s) that you have made. You have not done so to this date and it is suggested that you meet with your primary care provider(s) first as they will be responsible for submitting the required paperwork in order to process these requests.

I have responded to your emails and written correspondence several times and on 15 November 2013 you stated that Monday's are the easiest for you to set aside to discuss a way forward. You have not attempted to speak with your provider(s) to set up a meeting between our offices to address this important business matter. As I stated previously, the Commander's Office, the Privacy Compliance Office, the Freedom of Information Act Office and the Patient Administration Department have been inundated with your requests beginning in early 2012 December. We have all worked diligently with the providers, clinicians and administrative staff members to address your concerns and resolve your requests in an expeditious manner. Despite our efforts, it appears we have been unable to satisfy your requests.

Please contact your provider(s) to discuss a way forward. Please do not contact the aforementioned offices in the future without contacting your provider(s) as I will be able to coordinate all efforts by receiving your specific requests submitted to me directly through your provider(s). Thanks in advance for your prompt attention to this important business matter.

VI

Joe Davidge
Special Assistant to the Commander
Privacy Compliance Administrator
Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office
Walter Reed National Military Medical Center
8901 Wisconsin Avenue
Building 1, Deck 2 (2nd Floor), Room #2430
Bethesda, Maryland 20889-5600

Attachment A

Page 1 of 15

Attachment A

Phone: 301-319-4775

BlackBerry: (b) (6)

Facsimile: 301-295-5522

Email: (b) (6)

ATTENTION!!!

This email is privileged and/or confidential information
that is intended solely for the person or person (s) to
whom it is addressed. If you are receiving this
email in error, please delete it and contact
the sender immediately at 301-319-4775.

This document may contain information covered under the Privacy Act, 5 USC 552(a), and/or the Health Insurance Portability and Accountability Act (PL 104-191) and its various implementing regulations and must be protected in accordance with those provisions. Healthcare information is personal and sensitive and must be treated accordingly. If this correspondence contains healthcare information it is being provided to you after appropriate authorization from the patient or under circumstances that don't require patient authorization. You, the recipient, are obligated to maintain it in a safe, secure and confidential manner. Re-disclosure without additional patient consent or as permitted by law is prohibited. Unauthorized re-disclosure or failure to maintain confidentiality subjects you to application of appropriate sanction. If you have received this correspondence in error, please notify the sender at once and destroy any copies you have made. FOR OFFICIAL USE ONLY (FOUO)- Privacy Sensitive

From: (b) (6) m [REDACTED]
Sent: Tuesday, December 10, 2013 5:40 AM
To: Davidge, Joe E CIV US WRNMMC; Bizzell, Judy J CIV US WRNMMC; McCall, Thurman S CTR US WRNMMC
Cc: Henry, Kurt A. CAPT BUMED; (b) (6)
Subject: Medical records

Dear Mr Davidge, Ms Bizzell and Mr. McCall,

Attachment A

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Attachment A

Are you working with Captain Henry regarding replies to this Privacy Act/FOIA Request and related Privacy Act requests for corrections to medical records? Captain Henry indicated that his notes were made in the presence of Walter Reed medical records personnel.

Thank you.

With my respect,

Robert Hammond

In a message dated 11/06/13 05:31:13 Eastern Standard Time, perseverance2013 writes:

November 6, 1013

Captain Kurt A. Henry, MC, USN
Walter Reed National Medical Center
8901 Rockville Pike
Bethesda, MD 20889-5600

Dear Captain Henry,

I hope that you are doing well. You may recall that you cared for me while I was in the hospital over Christmas in December 2011.

While I expressed concerns following my discharge about some treatment decisions, I am now simply trying to ensure that my medical records are complete and accurate. I would appreciate your help and support in that regard. Please be assured that I am not pursuing any complaint against you or anyone else who cared for me.

I want you to be aware of a Privacy Act/Freedom of Information Act request submitted on June 22, 2013 requesting a copy of the notes that you referenced in our or meeting on May 14, 2012 and of a Privacy Act Request submitted on June 24, 2012 for you to make an addendum to your medical record entries for my hospitalization in December 2011. The addendum requests an entry regarding when and how you

Attachment A

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Attachment A

became aware that IV NS (Normal Saline) was stopped at 0305 on December 26, 2011 and when and how you became aware of the 26 Dec 11 @ 0001 (Coll) SERUM laboratory results. Those laboratory results showed diminished electrolytes, including a value for NA+ of 129. Please note that a nurse on duty paged four physicians at the time the IVF was stopped and you were likely among those paged.

Unfortunately my Privacy Act/FOIA Requests have not been adequately addressed there may be a need for judicial review by the federal court and/or by the Secretary of Health and Human Services in accordance with governing statutes, DOD regulations and the Code of Federal regulations.

The WRNMMC points of contact are:

HIPPA Privacy Officer: Mr. Joseph E. Davidge, (b) (6)

FOIA Officer: Ms. Judy Bizzell, judy.j.bizzell.civ@health.mil

Thank you.

With my deep respect,

Robert Hammond

Commander, Supply Corps
United States Navy (Retired)

-----Original Message-----

From: "Davidge, Joe E CIV US WRNMMC" <(b) (6)>

To: (b) (6) m>

Cc: "Bizzell, Judy J CIV US WRNMMC" <Judy.J.Bizzell.civ@health.mil>

"McCall, Thurman S CTR US WRNMMC" (b) (6)

"Franz, Charles P US CPT USA" (b) (6)

"Moidel, Barbara I CIV US WRNMMC" (b) (6)

"Floyd, Cornell J CIV US WRNMMC" (b) (6)

"Logeman, Judy A CIV US WRNMMC" (b) (6)

"Roush, Matthew R LT OJAG, Code (b) (6)

Subject: RE: URGENT Potential Breach of Protected Privacy Act Information

Attachment A

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Attachment A

Date: Wed, 13 Nov 2013 10:55:08 -0500

Mr. Hammond,

Good morning sir! I am writing you in response to the twenty-two email requests the Privacy Compliance Office has received from you in the month of October. As you are aware, per the attached certified letter, we requested that you provide our offices with one consolidated request. The Privacy Compliance Office, the Freedom of Information Act Office and the Patient Administration Department have been inundated with your requests beginning in early 2012 December. We have all worked diligently with the providers, clinicians and administrative staff members to address your concerns and resolve your requests in an expeditious manner. Despite our efforts, it appears we have been unable to satisfy your requests.

At this time, it is my plan to meet with the Special Assistant for Health Care Resolutions to work on a solution to resolve this important matter. I sincerely apologize for any concern and discomfort this may have caused you and any inconvenience this has imposed upon you. We will be reaching out to you soon to discuss a way forward. Thanking you in advance for your attention to this important business matter.

V/r

Joe Davidge
Special Assistant to the Commander
Privacy Compliance Administrator
Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office
Walter Reed National Military Medical Center
8901 Wisconsin Avenue
Building 1, Deck 2 (2nd Floor), Room #2430
Bethesda, Maryland 20889-5600
Phone: 301-319-4775
BlackBerry: (b) (6)
Facsimile: 301-295-5522
Email: (b) (6)

ATTENTION!!!

This email is privileged and/or confidential information

Attachment A

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From: (b) (6)
Sent: Tuesday, November 12, 2013 5:47 AM
To: Davidge, Joe E CIV US WRNMMC; Bizzell, Judy J CIV US WRNMMC; McCall, Thurman S CTR US WRNMMC
Subject: URGENT Potential Breach of Protected Privacy Act Information

Robert Hammond

(b) (6)

November 12, 2013

Freedom of Information Act (FOIA)
Administrator, Ms. Judy Bizzell/Privacy Officer,
Walter Reed National Medical Center (WRNMMC)
8901 Rockville Pike

Attachment A

Bethesda, MD 20889-5600

J. E. Davidge, HIPPA/Privacy Compliance Officer

Walter Reed National Military Medical Center (WRNMMC)

Building 1, 2nd Floor, Room 2435

8901 Rockville Pike

Bethesda, MD 20889-5600

Thurman McCall

Medical Records Administrator

Walter Reed National Medical Center

8901 Rockville Pike

Bethesda, MD 20889-5600

Subject: Potential Breach of Protected Privacy Act Information – DVD Containing PDF files of Records Received from WRNMMC as of May 14, 2012

Dear Ms. Bizzell, Mr. Davidge and Mr. McCall,

Please refer to my letter of June 29, 2013, subject: Privacy Act Request/FOIA Request – Medical Records; Copy of DVD Containing PDF files of Records Received as of May 14, 2012.

I am very concerned that after nearly five months, you have not been able to locate and account for this DVD, which contains my sensitive medical information (including consultations by psychiatry) along with my social security number and other personally identifiable information. This is very disturbing..

The DVD that I gave Ms. Logeman was labeled "HIPPA" and it is an agency record. I don't understand why the DVD was not properly safeguarded as I asked and now cannot be accounted for. The thought of a possible a possible breach of my Privacy Act/HIPPA information is very troubling.

Attachment A

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Attachment A

Please expedite your search for the DVD and also initiate the essential reviews / incident reporting as possible Privacy Act and HIPPA breaches. If you are unable to locate the DVD immediately, please also review the possible unauthorized destruction of this record.

I am asking that you do these things as soon as possible. If you are able to locate the DVD please send me a copy soonest by certified mail under appropriate cover letter and send me an email with the tracking information.

Please acknowledge right away that you received this email and have initiated the incident reviews. Please let me know the status of your incident reviews along with anything else that you may be doing by Friday, November 15, 2013.

Thank you in advance your help.

With my respect,

Robert Hammond

Commander, Supply Corps
United States Navy (Retired)

-----Original Message-----

From: <(b) (6)>

To: "Bizzell, Judy J CIV US WRNMMC" <Judy.J.Bizzell.civ@health.mil>

Cc: "Franz, Charles P US CPT USA" <(b) (6)>

"Moidel, Barbara I CIV US WRNMMC" <(b) (6)>

"Floyd, Cornell J CIV US WRNMMC" <(b) (6)>

"Logeman, Judy A CIV US WRNMMC" <(b) (6)>

(b) (6)

"Davidge, Joe E CIV US WRNMMC" <(b) (6)>

"McCall, Thurman S CTR US WRNMMC" <(b) (6)>

Subject: Re: URGENT Potential Breach of Protected Privacy Act Information

Date: Thu, 14 Nov 2013 18:40:29 -0500

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Attachment A

Dear Ms. Bizzell and others,

Please accept my sincere apology.

I did not intend to offend anyone personally. I see clearly that I did.

I did misread your statement. I was referring to my request of June 29, 2012 asking for a copy of the DVD that I gave to Ms. Logeman to help locate missing records.

I don't really understand your Privacy Act/FOIA process, or have an appreciation for the work that you all do or how medical records or other documents are kept. I see now that my multiple requests and follow-ups are creating additional work for you. I don't want that, nor do I want to be unreasonable about the time that you need to complete your work. I am willing to combine or withdraw some requests.

What prompted me to submit additional requests to medical records and to you was that records that I had been asking for right after I got out of the hospital in December of 2011 continued to be found after I pointed them out and even one of my doctors was also unable to get records. Perhaps there are different systems or this is related to software problems. There are a couple of records that were found after your May email to me that concern me. I will get with you and Mr. Davidge on that later.

I appreciate all of the medical people who take care of me. Hospitalizations are extremely difficult for me and I know that am an extraordinarily hard patient to take care. I want to assure you again that I have no desire to pursue judicial review or review by HHS as discussed in your denial letters.

Thank you.

With my respect,

Robert Hammond

Commander, Supply Corps
United States Navy (Retired)

Attachment A

In a message dated 11/14/2013 10:43:34 A.M. Eastern Standard Time, Judy.J.Bizzell.civ@health.mil writes:

Good day Mr. Hammond – Please be advised that there is no missing DVD. As stated in my e-mail on yesterday; the contents of the DVD were copied and mailed to you. Therefore, when you were informed that “all information provided to this office was released to you “in-full” that was a true and accurate statement. The DVD has now been copied onto another DVD and the copied DVD will be mailed to you. Please look for it, via certified mail, within the next few days.

Regards,

Judy J. Bizzell

By Direction

Freedom of Information Act Officer

Walter Reed National Military Medical Center

8900 Wisconsin Avenue

Bethesda, MD 20889

(b) (6)

From: (b) (6) **mailto:** (b) (6)
Sent: Thursday, November 14, 2013 6:02 AM
To: Bizzell, Judy J CIV US WRNMMC; Davidge, Joe E CIV US WRNMMC; McCall, Thurman S CTR US WRNMMC
Cc: Franz, Charles P US CPT USA; Moidel, Barbara I CIV US WRNMMC; Floyd, Cornell J CIV US WRNMMC; Logeman, Judy A CIV US WRNMMC; matthew.roush@navy.mil; (b) (6)
Subject: Re: URGENT Potential Breach of Protected Privacy Act Information

Attachment A

Dear Ms. Bizzell, and Mr. Davidge,

Thank you for your replies. I appreciate the efforts of everyone on the WRNMMC staff.

The reason for my initial concern was that the DON JAG response to my appeal regarding my Privacy Act/FOIA request of June 29, 2013 indicated that the Privacy, FOIA and Medical Records Offices had done a thorough search for the DVD to no avail. The DON JAG letter was dated 18 Sep 13 and I had not heard anything from anyone at WRNMMC since I submitted the request in June. Did you notify Mr. Lattin and Major Contreras when you learned that you had located the DVD?

I am now concerned that the copy you mailed previously has not reached me. Please provide me a copy of your forwarding letter, certified mail tracking number and date mailed to assist in locating the missing DVD.

As I said in my prior emails following up on the status of previously submitted Privacy Act/FOIA and medical record correction requests, I am doing my best to work with you.

I need your help.

Please provide timely and complete replies to minimize the need for follow up emails and additional Privacy Act/FOIA requests. Your four email of yesterday were the first since Ms. Bizzell's email of May 23, 2013 indicating that "all information provided to this office was released to you "in-full"." The Privacy Act/FOIA requests that followed were for specific, detailed record sets known to exist – more correspondence than I hoped would be needed. Some records that you were previously unable to locate have now been provided and I look forward to working cooperatively with you to locate and obtain the remaining records. I am also agreeable to potentially consolidating medical records corrections. I simply want my medical records to be complete and accurate.

Ms. Bizzell, in reply to your second email yesterday asking me not to forward emails to Mr. Davidge via you, you are aware that I was able to locate email addresses for Mr. Davidge and Mr. McCall my own after sending an email via you on 16 October and another on 18 October without a reply. You have been together on every email since, including my 12 November email following up on my 18 October email. These involved both Privacy Act and FOIA requests. I plan continue sending emails to you both when appropriate. As I said, please feel free to contact me via email.

I would like to work together with you going forward.

Thank you.

With my respect,

Robert Hammond
Attachment A
Page 11 of 15

Attachment A

Commander, Supply Corps
United States Navy (Retired)

In a message dated 11/13/2013 11:04:15 A.M. Eastern Standard Time, Judy.J.Bizzell.civ@health.mil writes:

Dear Mr. Hammond

This note responds to your below request. The DVD in question is not lost; the DVD is in your FOIA file .

The following information is given to ensure your concerns are dispelled:

- DVD is labeled "Medical Records for Judy" on the first line and the second line simply reads "HIPPA".

The DVD was delivered to the Freedom of Information Act (FOIA) office by Mr. McCall and the contents were copied and mailed to you. I have requested the DVD to be copied and that DVD will be mailed to you via certified mail by weeks end.

Regards,

Judy J. Bizzell

By Direction

Freedom of Information Act Officer

Walter Reed National Military Medical Center

8900 Wisconsin Avenue

Bethesda, MD 20889

(b) (6)

Attachment A

From: (b) (6)
Sent: Tuesday, November 12, 2013 5:47 AM
To: Davidge, Joe E CIV US WRNMMC; Bizzell, Judy J CIV US WRNMMC; McCall, Thurman S CTR US WRNMMC
Subject: URGENT Potential Breach of Protected Privacy Act Information

Robert Hammond

(b) (6)

November 12, 2013

Freedom of Information Act (FOIA)
Administrator, Ms. Judy Bizzell/Privacy Officer,
Walter Reed National Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

J. E. Davidge, HIPPA/Privacy Compliance Officer
Walter Reed National Military Medical Center (WRNMMC)
Building 1, 2nd Floor, Room 2435
8901 Rockville Pike
Bethesda, MD 20889-5600

Thurman McCall
Medical Records Administrator
Walter Reed National Medical Center
Attachment A
Page 13 of 15

Attachment A

8901 Rockville Pike

Bethesda, MD 20889-5600

Subject: Potential Breach of Protected Privacy Act Information – DVD Containing PDF files of Records Received from WRNMMC as of May 14, 2012

Dear Ms. Bizzell, Mr. Davidge and Mr. McCall,

Please refer to my letter of June 29, 2013, subject: Privacy Act Request/FOIA Request – Medical Records; Copy of DVD Containing PDF files of Records Received as of May 14, 2012.

I am very concerned that after nearly five months, you have not been able to locate and account for this DVD, which contains my sensitive medical information (including consultations by psychiatry) along with my social security number and other personally identifiable information. This is very disturbing..

The DVD that I gave Ms. Logeman was labeled “HIPPA” and it is an agency record. I don’t understand why the DVD was not properly safeguarded as I asked and now cannot be accounted for. The thought of a possible a possible breach of my Privacy Act/HIPPA information is very troubling.

Please expedite your search for the DVD and also initiate the essential reviews / incident reporting as possible Privacy Act and HIPPA breaches. If you are unable to locate the DVD immediately, please also review the possible unauthorized destruction of this record.

I am asking that you do these things as soon as possible. If you are able to locate the DVD please send me a copy soonest by certified mail under appropriate cover letter and send me an email with the tracking information.

Please acknowledge right away that you received this email and have initiated the incident reviews. Please let me know the status of your incident reviews along with anything else that you may be doing by Friday, November 15, 2013.

Thank you in advance your help.

With my respect,

Attachment A
Page 14 of 15

Attachment A

Robert Hammond

Commander, Supply Corps
United States Navy (Retired)

-----Original Message-----

From: (b) (6)
To: "Davidge, Joe E CIV US WRNMMC" (b) (6)
"Bizzell, Judy J CIV US WRNMMC" <Judy.J.Bizzell.civ@health.mil>
Subject: Re: URGENT Potential Breach of Protected Privacy Act Information
Date: Fri, 15 Nov 2013 16:52:14 -0500

Good afternoon, Mr. Davidge and Ms. Bizzell.

First, thank you both for all of your help. I really do appreciate it.

I'll look at every request and see what is best withdrawn, combined or narrowed in scope and then be patient while everyone does their work in a normal routine along with other work and the coming holiday. Expungement is fine for the record entries in my first request that believe are incorrect.

Monday's are easiest for me to set aside time for call to discuss a way forward as you suggested. One goal will be to limit the time and effort for everyone.

Thank you again. Have a great weekend!

bob hammond

In a message dated 11/13/2013 11:00:32 A.M. Eastern Standard Time, (b) (6) writes:

Mr. Hammond,

Attachment A
Page 15 of 15

Attachment A

Good morning sir! I am writing you in response to the twenty-two email requests the Privacy Compliance Office has received from you in the month of October. As you are aware, per the attached certified letter, we requested that you provide our offices with one consolidated request. The Privacy Compliance Office, the Freedom of Information Act Office and the Patient Administration Department have been inundated with your requests beginning in early 2012 December. We have all worked diligently with the providers, clinicians and administrative staff members to address your concerns and resolve your requests in an expeditious manner. Despite our efforts, it appears we have been unable to satisfy your requests.

At this time, it is my plan to meet with the Special Assistant for Health Care Resolutions to work on a solution to resolve this important matter. I sincerely apologize for any concern and discomfort this may have caused you and any inconvenience this has imposed upon you. We will be reaching out to you soon to discuss a way forward. Thanking you in advance for your attention to this important business matter.

V/r

Joe Davidge
Special Assistant to the Commander
Privacy Compliance Administrator
Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office
Walter Reed National Military Medical Center
8901 Wisconsin Avenue
Building 1, Deck 2 (2nd Floor), Room #2430
Bethesda, Maryland 20889-5600
Phone: 301-319-4775
BlackBerry: (b) (6)
Facsimile: 301-295-5522
Email: (b) (6)

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Attachment A

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From: (b) (6)

Sent: Tuesday, November 12, 2013 5:47 AM

To: Davidge, Joe E CIV US WRNMMC; Bizzell, Judy J CIV US WRNMMC; McCall, Thurman S CTR US WRNMMC

Subject: URGENT Potential Breach of Protected Privacy Act Information

Robert Hammond

(b) (6)

November 12, 2013

Freedom of Information Act (FOIA)
Administrator, Ms. Judy Bizzell/Privacy Officer,
Walter Reed National Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

J. E. Davidge, HIPPA/Privacy Compliance Officer

Attachment A

Walter Reed National Military Medical Center (WRNMMC)

Building 1, 2nd Floor, Room 2435

8901 Rockville Pike

Bethesda, MD 20889-5600

Thurman McCall

Medical Records Administrator

Walter Reed National Medical Center

8901 Rockville Pike

Bethesda, MD 20889-5600

Subject: Potential Breach of Protected Privacy Act Information – DVD Containing PDF files of Records Received from WRNMMC as of May 14, 2012

Dear Ms. Bizzell, Mr. Davidge and Mr. McCall,

Please refer to my letter of June 29, 2013, subject: Privacy Act Request/FOIA Request – Medical Records; Copy of DVD Containing PDF files of Records Received as of May 14, 2012.

I am very concerned that after nearly five months, you have not been able to locate and account for this DVD, which contains my sensitive medical information (including consultations by psychiatry) along with my social security number and other personally identifiable information. This is very disturbing..

The DVD that I gave Ms. Logeman was labeled “HIPPA” and it is an agency record. I don’t understand why the DVD was not properly safeguarded as I asked and now cannot be accounted for. The thought of a possible a possible breach of my Privacy Act/HIPPA information is very troubling.

Please expedite your search for the DVD and also initiate the essential reviews / incident reporting as possible Privacy Act and HIPPA breaches. If you are unable to locate the DVD immediately, please also review the possible unauthorized destruction of this record.

Attachment A

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Attachment A

I am asking that you do these things as soon as possible. If you are able to locate the DVD please send me a copy soonest by certified mail under appropriate cover letter and send me an email with the tracking information.

Please acknowledge right away that you received this email and have initiated the incident reviews. Please let me know the status of your incident reviews along with anything else that you may be doing by Friday, November 15, 2013.

Thank you in advance your help.

With my respect,

Robert Hammond

Commander, Supply Corps
Unites States Navy (Retired)

Attachment A

From: (b) (6)
To: (b) (6) mil, Judy.J.Bizzell.civ@health.mil, (b) (6)
Sent: 12/12/2013 2:48:21 P.M. Eastern Standard Time
Subj: Re: Medical records

Dear Mr. Davidge, Ms. Bizzell and Mr. McCall,

Your suggestion below is contrary to guidance provided by Captain Cash, Deputy Commander for Medicine in his letter dated 01 Oct 2012 (attached), directing me to submit FOIA requests to Ms. Bizzell, requests for correction of medical records to [you] as the HIPPA Privacy Officer and requests for medical records to Mr. McCall. Moreover, your suggestion is not in line with governing laws, regulations and policies. I will continue to submit such requests and follow up correspondence to you for action per the guidance above. And, when a request involves more than one area, such as Privacy Act, FOIA and/or medical records, I will continue to include each of you as appropriate.

I am aware of no reason for you not to have completed the Privacy Act, FOIA, medical records corrections and medical records requests submitted by DD Forms 2870 within the statutory time periods. You are, and will remain, non-compliant with governing laws, regulations and policies until each individual request is completed.

My email to you of November 13, 2013 was an effort toward conciliation, which you have apparently decided to distort and use to rationalize your collective failure to do your jobs and to rationalize your noncompliance. Your requests for consolidation were immediately answered. There is no reason for your continued uncooperative opposition and delay. Should review by a federal court, the Secretary of Health and Human Services or the Merit Systems Protection Board arise out of your continued opposition, I would expect that you will each be accountable for your own unwarranted, capricious and arbitrary action or inaction. Collectively, you have taken virtually no apparent action on my requests in over six months.

Regarding my FOIA requests, when you failed to "reach out to me soon regarding a way forward," I reviewed each FOIA request. And, in my email of December 2, 2013 (attached), I withdrew those related to my requests for DD Forms 2870 and those related the critical value for sodium. In that regard, I believe that the DD Forms 2870 constitute Privacy Act Requests in their own right or, at a minimum, records required to support disclosure that must be maintained for a minimum of six years. I suggest that you contact your WRNMMC Records Manager regarding the appropriate record schedule and your records management compliance. Similarly, in your initial reply to my request for the critical value of sodium, you attempted to obscure my request by referring to my own laboratory values that are clearly irrelevant. On appeal, my requests were sustained - although I am still convinced that you could have obtained the actual value from CHS computer system backup files and system logs within days as I initially suggested. So, each of the remaining FOIA requests is for a very specific record set, made necessary by your failure to respond to simple requests, like: provide "all my medical records of any kind and in any format". I am now reluctantly considering judicial review and review by the Secretary of

Attachment A

HHS, because of your refusal to cooperate and provide available records. I will consider each request individually. Please complete each request fully and promptly, return my original request with your reply and do not ask again for me to consolidate requests.

Regarding my requests for medical records corrections, I have clearly stated what I believe to be inaccurate or incomplete in my records and what is needed by each health care professional. On December 2, 2013, I suggested that a health professional may combine more than one request in his or her reply, as long as the elements of each request were fully addressed and as long as you return each request with the proposed correction. This could have been done from the very beginning. I am amenable to succinct entries addressing multiple requests, but the health care professional must propose the entry based on his or her knowledge of the facts and his or her reasons for taking or not taking particular actions. These are their entries, not mine. It is your job as the HIPPA Privacy Officer to relay my requests to the providers (if they are still available) and to coordinate their replies.

It is not clear why you chose to cut and paste portions of various unrelated emails into the disjointed thread below and to include parties (such as Captain Henry, LT Rouch and others) who have no involvement or apparent reason to be given my protected health information. It is also not clear why you chose to introduce unrelated matters (such as correspondence related to your non-compliance regarding medical records corrections for Ms. Afriye and 2LT Leung) into correspondence related to a potential privacy breach of a DVD containing my medical records. At best these actions are disingenuous and distracting. Please contact each health care provider and complete each request by proposing appropriate corrections. Your delay is inexcusable. You may "satisfy my requests" by simply doing your job and complying with law.

For information, with the exception of your PDF files, the other (zip) files in your email were corrupted. I do not need them; please focus your efforts on completing my requests promptly.

With my respect,

Robert Hammond

Unauthorized Disposition ICO FOIA Request #14-R to Walter Reed

perseverance2013 via Unauthorized Disposition <UnauthorizedDisposition@nara.gov>

Sat, Apr 17, 2021 at 3:46 PM

Reply-To: (b) (6)

To: UnauthorizedDisposition@nara.gov, Andrea Riley <andrea.riley@nara.gov>, GRS_Team <GRS_Team@nara.gov>

Cc: (b) (6)

(Best viewed as HTML. Footnotes do not display in Outlook. See attachments.)

NARA Unauthorized Disposition Complaint. Alteration & Destruction of Records

ICO FOIA Request #14 R to Walter Reed

I. ALLEGATIONS

I am alleging that

1. The Walter Reed National Military Medical Center (“Walter Reed” or “WRNMMC”) FOIA Officer, **Judy J. Bizzell**, during or prior to litigation^[1], destroyed original records related to my FOIA Request WRNMC #14-R of April 28, 2014 or they are in eminent danger of being destroyed.
2. Ten other persons may have similarly destroyed such FOIA records, two of whom (Henry and Roush) were not Walter Reed employees.
3. **Judy J. Bizzell** materially altered during litigation Court records related to my FOIA Request WRNMC #14-R.

While Walter Reed is currently a subordinate entity of Defense Health Agency (DHA), they each have their own accountable records officers/managers.

II. ACTIONS SOUGHT

1. Notify WRNMMC within 5 working days.
2. Provide me a point of contact by return email to discuss this matter and clarify as needed
3. Permit me to discuss the Agencies’ replies prior to deciding on this complaint to preclude the likely provision of misinformation, as has been done in the past
4. Seek to recover records from Ms. Bizzell, ten other identified persons, back-up email servers, and from a DVD in the possession of Ms. Bizzell’s supervisor, Joseph E. Davidge
5. If any records have not been destroyed, seek that Walter Reed provide to you each specifically enumerated record/record set in their possession. Absent the Accused Parties producing each specifically enumerated record/record set for your verification to prove their existence, NARA may be

mis lead (as DOD has done in the past, claiming that records were posted a website when they were not). There is already considerable evidence of inaccurate testimony and alteration of records by Accused Parties They cannot be trusted, in my view

III. IDENTIFICATION OF RECORDS

I sent my FOIA Request WRNMC 14-R to Judy Bizzell by email on 4/28/2014 5:36:58 AM (attached for NARA hereto as Hammond April 28, 2014 email, FOIA Request WRNMC #14-R).

My 4/28/2014 5:36:58 AM email contained my 23-page FOIA request as an attachment and identifies that attachment as WSRNMC 14 R pdf (attached for NARA hereto) ^[2]

During litigation, Ms. Bizzell cited as a responsive litigation record her email of May 23, 2014 forwarding my 4/28/2014 5 36 58 AM email (Subject FOIA Request WRNMC #14 R) with my attachment thereto to [at least] nine persons. In her May 23, 2014 email, Ms. Bizzell seeks responses from addressees related to that FOIA Request WRNMC #14 R [Second Bizzell Declaration, ECF 18 1 ¶22; Third Bizzell Declaration, ECF 25-2 at 15 n.4.]

Ms Bizzell also cited during litigation her May 30, 2014 follow up to her May 23, 2014 email

The nine persons to whom Ms. Bizzell sent her May 23, 2014 7:30 PM email, who would also have Ms. Bizzell's original May 23, 2014 email with attachment thereto include

1. Franz, Charles P US CPT USA;
2. Moidel, Barbara I CIV US WRNMMC;
3. Floyd, Cornell J CIV US WRNMMC;
4. Logeman, Judy A CIV US WRNMMC;
5. Davidge, Joe E CIV US WRNMMC;
6. McCall, Thurman S CTR US WRNMMC;
7. Roush, Matthew R LT OJAG, Code 14 (b) (6)
8. Henry, Kurt A. CAPT BUMED;
9. Bernstein, Dina L CIV US WRNMMC.

A tenth person, Brice A. Goodwin (b) (6), is also alleged to have potentially received Ms. Bizzell's May 23, 2014 7:30 PM email either as a blind copy or through separate forwarding.

After Ms. Bizzell's Third Declaration (wherein Ms. Bizzell inaccurately stated that certain records had been produced or promised to release records but did not do so), the Court ordered me (Plaintiff) to identify all outstanding records that Defendants had not produced and ordered Defendants (Walter Reed, et. al.) to produce them. [Dkt. Nos. 29 and 30]. With respect to my FOIA Request WRNMC #14-R, such records that Walter Reed was to produce (but has not, and may have then been destroyed based on Ms. Bizzell's sworn Fourth Declaration) include:

- *Original email from Judy Bizzell dated May 23, 2014 [see ECF 18-1 ¶22] and attachment(s) thereto.1 See ECF 25-2 at 15 n.4.*”
- *Original email from Ms. Bizzell dated May 23, 2014, 7:29:39 PM, including any blind copy addressees or attachments thereto. See supra § I.*
- *Any and all email responses to Ms. Bizzell’s May 23, 2014 email, including subsequent correspondence related thereto, and in particular from (1) Charles P. Franz, US CPT USA; (2) Cornell J. Floyd, CIV US WRNMMC; (3) Matthew R. Roush, LT OJAG, Code 14 (b) (6); (4) Dina L. Bernstein, CIV US WRNMMC; (5) Joe E. Davidge, CIV US WRNMMC; and (6) Brice A. Goodwin (b) (6)*
- *Ms. Bizzell’s contemporaneous notes and any other records related to her May 30, 2014 follow-up to her May 23, 2014 email.*

Records destroyed and/or potential false statements under oath.

1. **Records destroyed:** *“Original email from Judy Bizzell dated May 23, 2014 [see ECF 18-1 ¶22] and attachment(s) thereto.1 See ECF 25-2 at 15 n.4.”*
 - a. Walter Reed’s FOIA Officer, Judy Bizzell, stated that **under oath** that she could not locate her Original May 23, 2014 email, meaning, if true, she **personally destroyed** her original email (subject to FOIA records retention), as evidently did all nine or ten recipients of that email
 - b. Fourth Bizzell Declaration ¶ 5 states: *“Plaintiff requested “the Original email from Judy Bizzell dated May 23, 2014 [see ECF 18 1 ¶ 22] and any attachments thereto This email was referenced in Third Bizzell Declaration ¶27, note 4. After a thorough search of the agency’s shared system, **I cannot locate the original email** I sent A copy of this email embodied in a response emails is attached as Exhibit D, along with the document I know I attached to my May 23, 2014 email ”*
 - c. As Ms. Bizzell admits, “Exhibit D” is not the original email. It is a confused response to Ms. Bizzell from Ms Logeman, “I don’t completely understand item #1 ”
 - d. I am including for NARA a copy of Ms. Bizzell’s cited Dkt. No. 32-7, Exhibit D.
 - e. Note, Ms Bizzell’s alleged “attachment” to her May 23, 2014 email at Exhibit D is discussed separately below under “alteration of records.”
- 2 **Records destroyed:** *“Original email from Ms Bizzell dated May 23, 2014, 7 29 39 PM, including any blind copy addressees or attachments thereto. See supra § I.”*
 - a. In her response regarding this record, Ms. Bizzell falsely states under oath that she provided the records as her “Exhibit D,” even though, in contradiction (as identified above), she states under oath in Fourth Bizzell Declaration ¶ 5 that she did **not** provide the “original email including blind copies or attachments thereto” as her Exhibit D.

b. Fourth Bizzell Decl. ¶ 16, addressing Paragraph F of Plaintiff's List of Outstanding Records, falsely states, "*The email referenced in bullet number two, dated May 23, 2014 is attached as Exhibit D.*" Bizzell's statement is materially false.

c. I am including for NARA a copy of Ms. Bizzell's cited Dkt. No. 32-7, Exhibit D.

d. Note, Ms. Bizzell's alleged "attachment" to her May 23, 2014 email at Exhibit D is discussed separately below under alteration of records.

3. **Records destroyed:** "*Any and all email responses to Ms. Bizzell's May 23, 2014 email, including subsequent correspondence related thereto, and in particular from (1) Charles P. Franz, US CPT USA; (2) Cornell J. Floyd, CIV US WRNMMC; (3) Matthew R. Roush, LT OJAG, Code 14 (b) (6); (4) Dina L. Bernstein, CIV US WRNMMC; (5) Joe E. Davidge, CIV US WRNMMC; and (6) Brice A. Goodwin (b) (6).*"

- a. Ms. Bizzell falsely states under oath that she provided the records as her "Exhibit G."
- b. Exhibit G does not contain any records whatsoever related to the six "*in particular*" persons identified in records sought (i.e., Franz, Floyd, Roush, Bernstein, Davidge, Goodwin).
- c. Exhibit G does contain an May 27, 2014 11:03:44 AM confirmed receipt from Logeman, Judy A CIV US WRNMMC to a May 27, 2014 10:35:00 email from Ms. Bizzell, "Subject: **RE:** FOIA Request WRNMC #14-R," documenting that Ms. Bizzell replied to Ms. Logeman's earlier May 24, 2014 10:36:28 AM email to Ms. Bizzell. Ms. Bizzell has not released her May 27, 2014 10:35:00 AM email to Ms. Logeman, "Subject: **RE:** FOIA Request WRNMC #14-R" that Logeman confirmed receipt (Dkt. No. 32-9, Exhibit G at 8). Bizzell's and Logeman's copies of that Bizzell May 27, 2014 10:35:00 AM email to Logeman are alleged to have been destroyed, based on Ms. Bizzell's sworn Fourth Declaration. Any additional correspondence, such as a subsequent reply from Logeman to Bizzell, is also presumed destroyed.
- d. Relevant correspondence between Bizzell and the nine persons identified in her May 23, 2014 email (plus Goodwin) is presumed destroyed or in danger of being destroyed.^[3]

4. **Records destroyed:** "*Ms. Bizzell's contemporaneous notes and any other records related to her May 30, 2014 follow-up to her May 23, 2014 email.*"

- a. Bizzell recalled the exact date of her *May 30, 2014 follow-up to her May 23, 2014 email* three years later in her sworn Second Bizzell Declaration of February 26, 2017.
- b. When ordered by the Court to produce such records, Bizzell then states under oath (unbelievably) that she cannot locate these records. They are therefore presumed destroyed (unless produced to NARA).
- c. Fourth Bizzell Decl. ¶ 16 states, "*I searched my computer and hard copy documents for any responsive records of this type and located none.*"
- d. In addition to Bizzell, the ten above named parties would also have such records.

Bizzell's alteration of records during Court proceedings – FOIA Request #14-R (WSRNMC 14 - R.pdf).

Judy, J. Bizzell, during litigation, altered records by substituting an attachment to my April 28, 2014 5:37 AM email to her (true attachment "WSRNMC 14 -R.pdf") with a different record (presumed to be FOIA WRNMC 14 B- L.pdf) and then swore under oath to the authenticity of the improperly substituted, false record (stating it was "*the document I know I attached to my May 23, 2014 email,*") to produce a materially altered evidentiary record for the Court. [Dkt. No. 32-7, Exhibit D, pages 3 – 25 (altered Court evidentiary record)].

As noted, Ms. Bizzell's May 23, 2014 email forwarded to nine persons (and potentially to Brice Goodwin) my April 28, 2014 5:37 AM email to her with my true attached FOIA request (WSRNMC 14 -R.pdf). The subject of Bizzell's May 23, 2014 email is "Subject **FW**: FOIA Request WRNMC #14-R." [Dkt. No. 32-7. Exhibit D at page 2].

However, the record that Bizzell states under oath is "*the document I know I attached to my May 23, 2014 email,*" is NOT my 23-page FOIA request (WSRNMC 14 -R.pdf) attached to my April 28, 2014 5:37 AM email. For Ms. Bizzell to have forwarded the attachment that she cites (which has no relationship to my FOIA request #14-R), she would have had to first physically removed the true attachment to my email (WSRNMC 14 -R.pdf). Original records of Ms. Bizzell's May 23, 2014 email with my true attached email should document instead that Ms. Bizzell altered Court evidentiary records by creating a new, altered record (Dkt. No. 32-7. Exhibit D) with the false attachment appended to a copy of my April 28, 2014 email to her, and she then falsely swore under oath as to the authenticity of the altered record (Dkt. No. 32-7, Exhibit D at 3 (copy of my April 28, 2014 5:37 AM email to Ms. Bizzell, Subject: FOIA Request WRNMC #14-R); Dkt. No. 32-7, Exhibit D at 4 -25 (materially altered false record attachment)).

The false attachment deals with several different FOIA requests (WRNMC #14-B thru WRNMC #14-L) and not with FOIA Request WRNMC #14-R. The narrative of Ms. Bizzell's May 23, 2014 email forwarding my April 28, 2014 5:37 AM email matches the true attachment (WSRNMC 14 -R.pdf), not the altered record entered in Court evidence by her.

Significantly, my FOIA Request WRNMC #14-R seeks records related to an alleged 2013 Privacy Act violation by Ms. Bizzell's supervisor, Joseph E. Davidge. In addition to being Ms. Bizzell's supervisor, Mr. Davidge is Walter Reed's Privacy Compliance Administrator, responsible for investigating alleged Privacy

Act violations/complaints and reporting them to Congress.^[4] ("Joe Davidge, Special Assistant to the Commander, Privacy Compliance Administrator, Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office, Walter Reed National Military Medical Center"). The subject of my FOIA Request WRNMC #14-R is, "*Disclosures Related to[email] From: (b) (6) email Sent: 12/11/2013 6:15:44 P.M. Eastern Daylight Time, Subj: RE: Medical records.*" In as much as the instant litigation deals, in part, with another Privacy Act violation and the accuracy/inaccuracy of Privacy Act reporting generally, there appears to be strong motivation for Ms. Bizzell and her supervisor, Joseph E. Davidge, to keep the true attachment of my FOIA Request #14-R from the Court.

Nevertheless, the records that I am providing you of my original April 28, 2014 5:37 AM email and the original attachment thereto (WSRNMC 14 -R.pdf) are sufficient to incontrovertibly document that Ms. Bizzell materially altered Court evidentiary records. Matters of intent and participation by others may be appropriate for referral to/review in a different venue.

Additional copy of my original April 28, 2014 5:37 AM email via DVD.

In addition to sending my April 28, 2014 5:37 AM email with my attached FOIA Request WRNMC #14-R, (WSRNMC 14 -R.pdf), I provided Ms. Bizzell copies of my emails to a point in time via DVD on 2/11/2016 in certified package 7012 1640 0000 9665 4500 with restricted delivery to her. Ms. Bizzell's supervisor, Joseph E. Davidge, purportedly took custody of that certified package, even though it was sent restricted

delivery to Ms Bizzell NARA's inquiry should address whether Walter Reed also destroyed the DVD copy of my original April 28, 2014 5:37 AM email with its attachment.

Multiple notices to preserve records I have provided Walter Reed and DHA numerous notices to preserve all records related to my FOIA Request WRNMC #14-R, should there be any dispute about that requirement. Nevertheless, here I am addressing records in active litigation that have allegedly been destroyed and/or altered.

IV. APPLICABLE RETENTION SCHEDULE, NARA GRS 4.2 Item 20

020	Access and disclosure request files. Case files created in response to requests for information under the Freedom of Information Act (FOIA), Mandatory Declassification Review (MDR) process, Privacy Act (PA), Classification Challenge, and similar access programs, and completed by: • granting the request in full • granting the request in part • denying the request for any reason including: o inability to fulfill request because records do not exist o inability to fulfill request because request inadequately describes records o inability to fulfill request because search or reproduction fees are not paid	Temporary. Destroy 6 years after final agency action or 3 years after final adjudication by the courts, whichever is later, but longer retention is authorized if required for business use.	DAA-GRS-2016-00020001
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V. 32 CFR PART 286—DOD FREEDOM OF INFORMATION ACT (FOIA) PROGRAM

32 CFR §286.6 Preservation of records.

Each DoD Component shall preserve all correspondence pertaining to the requests that it receives under this part, as well as copies of all requested records, until disposition or destruction is authorized pursuant to title 44 of the United States Code or the General Records Schedule 4.2 of the National Archives and Records Administration (NARA). Records shall not be disposed of or destroyed while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

VI. 36 CFR § 1230. UNLAWFUL OR ACCIDENTAL REMOVAL, DEFACING, ALTERATION, OR DESTRUCTION OF RECORDS

36 CFR § 1230.3

Unlawful or accidental destruction (also called unauthorized destruction) means disposal of an unscheduled or permanent record; disposal prior to the end of the [NARA](#)-approved retention period of a temporary record (other than court-ordered disposal under [§ 1226.14\(d\)](#) of this subchapter); and disposal of a record subject to a **FOIA request**, litigation hold, or any other hold requirement to retain the records.

VII. 44 U.S. CODE § 3106 - UNLAWFUL REMOVAL, DESTRUCTION OF RECORDS

(a)FEDERAL AGENCY NOTIFICATION.—

The head of each Federal agency shall notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, corruption, deletion, erasure, or other destruction of records in the custody of the agency, and with the assistance of the Archivist shall initiate action through the Attorney General for the

recovery of records the head of the Federal agency knows or has reason to believe have been unlawfully removed from that agency, or from another Federal agency whose records have been transferred to the legal custody of that Federal agency

(b) ARCHIVIST NOTIFICATION.—

In any case in which the head of a Federal agency does not initiate an action for such recovery or other redress within a reasonable period of time after being notified of any such unlawful action described in subsection (a), or is participating in, or believed to be participating in any such unlawful action, the Archivist shall request the Attorney General to initiate such an action and shall notify the Congress when such a request has been made.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1298; Pub. L. 98–497, title I, § 107(b)(21), title II, § 203(b), Oct. 19, 1984, 98 Stat. 2290, 2294; Pub. L. 113–187, § 4, Nov. 26, 2014, 128 Stat. 2009.)

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VIII. 18 U.S. Code § 1519 - Destruction, alteration, or falsification of records

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both 18 U S Code § 1519 Destruction, alteration, or falsification of records. (Added Pub. L. 107–204, title VIII, §802(a), July 30, 2002, 116 Stat. 800.).

IX. 18 U.S.C. 641 and 2071 The penalties for the unlawful or accidental removal, defacing, alteration, or destruction of Federal records or the attempt to do so, include a fine, imprisonment, or both (18 U.S.C. 641 and 2071)

This is unauthorized disposition complaint is submitted upon presumption, belief, and records available to me

Thank you for your integrity and your careful review of these matters.

With my respect,

/s/

Robert Hammond

Whistleblower

Included records for NARA:

- Hammond April 28, 2014 email, FOIA Request WRNMC #14-R
- FOIA WSRNMC 14 R pdf [attached to April 28, 2014 email]
- Dkt. No. 32-7, Exhibit D
- Dkt No 32 9, Exhibit G

[1] Case 16-421 KBJ in the District Court of Colombia. All records are available from PACER.gov.


[2] If Walter Reed disputes the authenticity of the true 23-page attachment (WSNMRC 14 -R.pdf), I am prepared to provide NARA my original MS Outlook email with that attachment to confirm from its metadata the authenticity of the email and the attachment WSNMRC 14 -R.pdf, which Ms. Bizzell altered during litigation. The file properties of the records that I am providing NARA (WSNMRC 14 -R.pdf), shows that it was created 4/28/2014 at 5:36.42 AM, sixteen second before my email


[3] Exhibit G also contains a May 22, **2017** 5:20:25 PM email at the last page (page 9) that has nothing whatsoever to do with this matter. That 2017 email (from Walter Reed's Mail Services Supervisor, [Gulley, Meki C CIV USN NSA BETHESDA MD \(US\) to Bizzell, Judy J CIV DHA NCR MEDICAL DIR \(US\) Cc: Cygnarowicz, Paul T CIV \(US\)](#) **Subject** Reque ted Tracking Number) deal in tead with alleged de truction of mailroom and other record subject to a separate FOIA request related to certified packages. Ms. Bizzell (apparently in coordination with Agency Counsel Paul t. Cygnarowicz) made a seeming false statement under oath claiming this to be a record of "*email responses to Ms. Bizzell's May 23, 2014 email ...*" In doing so, Bizzell/Cygnarowicz deceptively bury evidence related to that eparate matter

[4]


6 attachments

 **Hammond April 28, 2014 email, FOIA Reque t WRNMC #14 R pdf**
328K

 **Dkt No 32 7, E hibit D pdf**
927K

 **Dkt No 32 9, E hibit G pdf**
148K

 **FOIA WSRNMC 14 R pdf**
902K

 **NARA Unauthorized Di po ition Complaint FOIA #14 R pdf**
224K


 **NARA Unauthorized Di po ition Complaint FOIA #14 R doc**
40K

Exhibit D

From: [Logeman, Judy A CIV US WRNMMC](#)
To: [Bizzell, Judy J CIV US WRNMMC](#)
Subject: RE: FOIA Request WRNMC #14-R
Date: Saturday, May 24, 2014 10:36:28 AM

Judy,

I do not completely understand item #1.

V/R
Judy

Judy A. Logeman

Healthcare Resolutions Program
Walter Reed National Military Medical Center
8900 Wisconsin Ave
Bethesda, MD 20889-0001

O: 301.400.2763

BB: (b) (6)

(b) (6)

-----Original Message-----

From: Bizzell, Judy J CIV US WRNMMC
Sent: Friday, May 23, 2014 7:30 PM
To: Franz, Charles P US CPT USA; Moidel, Barbara I CIV US WRNMMC; Floyd, Cornell J CIV US WRNMMC; 'Logeman, Judy A CIV US WRNMMC'; 'matthew.'; Davidge, Joe E CIV US WRNMMC; McCall, Thurman S CTR US WRNMMC; Logeman, Judy A CIV US WRNMMC; Floyd, Cornell J CIV US WRNMMC; Roush, Matthew R LT OJAG, Code 14 (matthew.roush@navy.mil); Henry, Kurt A. CAPT BUMED; Bernstein, Dina L CIV US WRNMMC
Cc: Bizzell, Judy J CIV US WRNMMC
Subject: FW: FOIA Request WRNMC #14-R

Good evening all - Below and attached is a 20 page document from Mr. Robert Hammond. Of those pages, the FOIA request is actually only for the following:

1. "I am requesting all records of disclosure of the information in the emails to other than those listed on the email, to include any forwarding of

the email to another party by any of the addressees and any verbal disclosure by any of the addressees."

2. "I am requesting photocopies of the front side disk labels of both the original and the copy of the DVDs containing my medical records that are in WRNMMC FOIA Office custody and that each image be labeled as to whether it is the original that I provided to Ms. Logeman or the copy made for the FOIA Office."

You need only be concerned with item #1 as this office will answer Mr. Hammond on item #2.

This request, along with three others from Mr. Hammond was found in my "junk" mail box today. Your earliest response will be appreciated.

Respectfully,

Judy
(301) 400-2315
-----Original Message-----

From: (b) (6) (b) (6)
Sent: Monday, April 28, 2014 5:37 AM
To: Bizzell, Judy J CIV US WRNMMC
Subject: FOIA Request WRNMC #14-R

Dear Ms. Bizzell,

Please see attached. Your FAX machine is not connected.

With my respect,

Robert Hammond

Robert Hammond

(b) (6)

April 26, 2014

Ms. Judy Bizzell
Freedom of Information Act (FOIA) Officer
Walter Reed National Military Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: FOIA Request – Personnel Record Information for

(b) (6)

Requester Control Number: FOIA WRNMC #14-B

- References: (a) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records"
- (b) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
- (c) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
- (d) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation

Dear Ms. Bizzell,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 522. If you deny all or any part of this request, please cite each specific exemption you think justifies your refusal to release the information and notify me of appeal procedures available under the law.

For the person identified by the email address (b) (6) I am seeking the following information as permitted by reference (b):

DoD 5400.11-R, May 14, 2007, C4.2.2.S.1. DoD Civilian Employees:

- C4.2.2.S.1.1.1. Name.
- C4.2.2.S.1.1.2. Present and past position titles.
- C4.2.2.S.1.1.3. Present grade.
- C4.2.2.S.1.1.4. Present annual salary rate.
- C4.2.2.S.1.1.5. Present and past duty stations.
- C4.2.2.S.1.1.6. Office and duty telephone number.
- C4.2.2.S.1.1.7. Current Position Description.

I agree to pay fees for searching or copying the records up to \$200. If the fees exceed this amount please advise me of the cost. I am a private citizen seeking this information. I do not believe that there should be any charge for providing these records.

Please cite the requester control number and include a copy of this request in your reply. This request is an agency record in its own right and providing a copy of this request is an integral part of my FOIA request, which helps to ensure that you fully address my request. Do not reply to more than one requestor control number in a single letter.

Reference (a) states that for requests 'that will require more than ten days for the agency to process to FOIA requires agencies to assign a tracking number to your request. Each agency must provide a telephone number or website by which a requester can use the assigned tracking number to obtain information about the status of a pending request.' DoD 5400.11-R, May 14, 2007, paragraph C3.1.1O. states: "Time Limits. "DoD Components normally shall provide access within 20 working days after receipt of the request. If access cannot be given within the 20 working day period, the requester shall be notified in an interim response." Please provide me a tracking number for this request.

Reference (c) states, "DoD personnel are expected to comply with the FOIA, this Regulation, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust."

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request.

With my respect,

A handwritten signature in black ink, appearing to read "Robert Hammond". The signature is fluid and cursive, with a large loop at the end.

Robert Hammond

Robert Hammond

(b) (6)

April 26, 2014

Ms. Judy Bizzell
Freedom of Information Act (FOIA) Officer
Walter Reed National Military Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: FOIA Request – Personnel Record Information for
Judy.J.Bizzell.civ@health.mil

Requester Control Number: FOIA WRNMC #14-C

References: (a) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records"
(b) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(c) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
(d) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation

Dear Ms. Bizzell,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 522 and. If you deny all or any part of this request, please cite each specific exemption you think justifies your refusal to release the information and notify me of appeal procedures available under the law.

For the person identified by the email address Judy.J.Bizzell.civ@health.mil, I am seeking the following information as permitted by reference (b):

DoD 5400.11-R, May 14, 2007, C4.2.2.S.1. DoD Civilian Employees:

- C4.2.2.S.1.1.1. Name.
- C4.2.2.S.1.1.2. Present and past position titles.
- C4.2.2.S.1.1.3. Present grade.
- C4.2.2.S.1.1.4. Present annual salary rate.
- C4.2.2.S.1.1.5. Present and past duty stations.
- C4.2.2.S.1.1.6. Office and duty telephone number.
- C4.2.2.S.1.1.7. Current Position Description.

I agree to pay fees for searching or copying the records up to \$200. If the fees exceed this amount please advise me of the cost. I am a private citizen seeking this information. I do not believe that there should be any charge for providing these records.


Please cite the requester control number and include a copy of this request in your reply. This request is an agency record in its own right and providing a copy of this request is an integral part of my FOIA request, which helps to ensure that you fully address my request. Do not reply to more than one requestor control number in a single letter.

Reference (a) states that for requests 'that will require more than ten days for the agency to process to FOIA requires agencies to assign a tracking number to your request. Each agency must provide a telephone number or website by which a requester can use the assigned tracking number to obtain information about the status of a pending request.' DoD 5400.11-R, May 14, 2007, paragraph C3.1.1O. states: "Time Limits. "DoD Components normally shall provide access within 20 working days after receipt of the request. If access cannot be given within the 20 working day period, the requester shall be notified in an interim response." Please provide me a tracking number for this request.

Reference (c) states, "DoD personnel are expected to comply with the FOIA, this Regulation, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust."

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request.

With my respect,

A handwritten signature in black ink, appearing to read "Robert Hammond". The signature is fluid and cursive, with the first name "Robert" and last name "Hammond" clearly distinguishable.

Robert Hammond

Robert Hammond

(b) (6)

April 26, 2014

Ms. Judy Bizzell
Freedom of Information Act (FOIA) Officer
Walter Reed National Military Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: FOIA Request – Personnel Record Information for

(b) (6)

Requester Control Number: FOIA WRNMC #14-D

- References: (a) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, “Your Right to Federal Records”
(b) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(c) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
(d) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation

Dear Ms. Bizzell,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 552. If you deny all or any part of this request, please cite each specific exemption you think justifies your refusal to release the information and notify me of appeal procedures available under the law.

For the person identified by the email address (b) (6) I am seeking the following information as permitted by reference (b):

DoD 5400.11-R, May 14, 2007, C4.2.2.S.1. DoD Civilian Employees:

- C4.2.2.S.1.1.1. Name.
- C4.2.2.S.1.1.2. Present and past position titles.
- C4.2.2.S.1.1.3. Present grade.
- C4.2.2.S.1.1.4. Present annual salary rate.
- C4.2.2.S.1.1.5. Present and past duty stations.
- C4.2.2.S.1.1.6. Office and duty telephone number.
- C4.2.2.S.1.1.7. Current Position Description.

I agree to pay fees for searching or copying the records up to \$200. If the fees exceed this amount please advise me of the cost. I am a private citizen seeking this information. I do not believe that there should be any charge for providing these records.

Please cite the requester control number and include a copy of this request in your reply. This request is an agency record in its own right and providing a copy of this request is an integral part of my FOIA request, which helps to ensure that you fully address my request. Do not reply to more than one requestor control number in a single letter.

Reference (a) states that for requests 'that will require more than ten days for the agency to process to FOIA requires agencies to assign a tracking number to your request. Each agency must provide a telephone number or website by which a requester can use the assigned tracking number to obtain information about the status of a pending request.' DoD 5400.11-R, May 14, 2007, paragraph C3.1.1O. states: "Time Limits. "DoD Components normally shall provide access within 20 working days after receipt of the request. If access cannot be given within the 20 working day period, the requester shall be notified in an interim response." Please provide me a tracking number for this request.

Reference (c) states, "DoD personnel are expected to comply with the FOIA, this Regulation, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust."

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request.

With my respect,

A handwritten signature in black ink, appearing to read "Robert Hammond", with a stylized flourish at the end.

Robert Hammond

Robert Hammond

(b) (6)

April 26, 2014

Ms. Judy Bizzell
Freedom of Information Act (FOIA) Officer
Walter Reed National Military Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: FOIA Request – Personnel Record Information for

(b) (6)

Requester Control Number: FOIA WRNMC #14-E

- References: (a) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records"
- (b) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
- (c) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
- (d) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation

Dear Ms. Bizzell,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 522. If you deny all or any part of this request, please cite each specific exemption you think justifies your refusal to release the information and notify me of appeal procedures available under the law.

For the person identified by the email address (b) (6) I am seeking the following information as permitted by reference (b):

DoD 5400.11-R, May 14, 2007, C4.2.2.S.1. DoD Civilian Employees:

- C4.2.2.S.1.1.1. Name.
- C4.2.2.S.1.1.2. Present and past position titles.
- C4.2.2.S.1.1.3. Present grade.
- C4.2.2.S.1.1.4. Present annual salary rate.
- C4.2.2.S.1.1.5. Present and past duty stations.
- C4.2.2.S.1.1.6. Office and duty telephone number.
- C4.2.2.S.1.1.7. Current Position Description.

I agree to pay fees for searching or copying the records up to \$200. If the fees exceed this amount please advise me of the cost. I am a private citizen seeking this information. I do not believe that there should be any charge for providing these records.

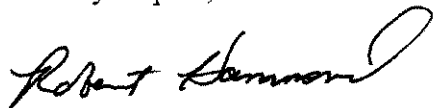
Please cite the requester control number and include a copy of this request in your reply. This request is an agency record in its own right and providing a copy of this request is an integral part of my FOIA request, which helps to ensure that you fully address my request. Do not reply to more than one requestor control number in a single letter.

Reference (a) states that for requests 'that will require more than ten days for the agency to process to FOIA requires agencies to assign a tracking number to your request. Each agency must provide a telephone number or website by which a requester can use the assigned tracking number to obtain information about the status of a pending request.' DoD 5400.11-R, May 14, 2007, paragraph C3.1.10. states: "Time Limits. "DoD Components normally shall provide access within 20 working days after receipt of the request. If access cannot be given within the 20 working day period, the requester shall be notified in an interim response." Please provide me a tracking number for this request.

Reference (c) states, "DoD personnel are expected to comply with the FOIA, this Regulation, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust."

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request.

With my respect,

A handwritten signature in black ink, appearing to read "Robert Hammond". The signature is fluid and cursive, with a large loop at the end.

Robert Hammond

Robert Hammond
(b) (6)

April 11, 2014

Ms. Judy Bizzell
Freedom of Information Act (FOIA) Officer
Walter Reed National Military Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: FOIA Request – Personnel Record Information for

(b) (6)

Requester Control Number: FOIA WRNMC #14-F

- References: (a) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, “Your Right to Federal Records”
(b) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(c) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
(d) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation

Dear Ms. Bizzell,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 522. If you deny all or any part of this request, please cite each specific exemption you think justifies your refusal to release the information and notify me of appeal procedures available under the law.

For the person identified by the email address (b) (6) I am seeking the following information as permitted by reference (b):

DoD 5400.11-R, May 14, 2007, C4.2.2.S.1. DoD Civilian Employees:

- C4.2.2.S.1.1.1. Name.
- C4.2.2.S.1.1.2. Present and past position titles.
- C4.2.2.S.1.1.3. Present grade.
- C4.2.2.S.1.1.4. Present annual salary rate.
- C4.2.2.S.1.1.5. Present and past duty stations.
- C4.2.2.S.1.1.6. Office and duty telephone number.
- C4.2.2.S.1.1.7. Current Position Description.

I agree to pay fees for searching or copying the records up to \$200. If the fees exceed this amount please advise me of the cost. I am a private citizen seeking this information. I do not believe that there should be any charge for providing these records.

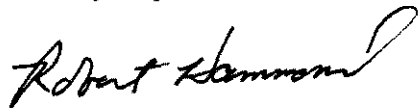
Please cite the requester control number and include a copy of this request in your reply. This request is an agency record in its own right and providing a copy of this request is an integral part of my FOIA request, which helps to ensure that you fully address my request. Do not reply to more than one requestor control number in a single letter.

Reference (a) states that for requests 'that will require more than ten days for the agency to process to FOIA requires agencies to assign a tracking number to your request. Each agency must provide a telephone number or website by which a requester can use the assigned tracking number to obtain information about the status of a pending request.' DoD 5400.11-R, May 14, 2007, paragraph C3.1.1O. states: "Time Limits. "DoD Components normally shall provide access within 20 working days after receipt of the request. If access cannot be given within the 20 working day period, the requester shall be notified in an interim response." Please provide me a tracking number for this request.

Reference (c) states, "DoD personnel are expected to comply with the FOIA, this Regulation, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust."

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request.

With my respect,

A handwritten signature in black ink, appearing to read "Robert Hammond". The signature is fluid and cursive, with a large, stylized initial "R".

Robert Hammond

Robert Hammond

(b) (6)

April 26, 2014

Ms. Judy Bizzell
Freedom of Information Act (FOIA) Officer
Walter Reed National Military Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: FOIA Request – Personnel Record Information for

(b) (6)

Requester Control Number: FOIA WRNMC #14-G

- References: (a) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records"
- (b) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
 - (c) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
 - (d) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation

Dear Ms. Bizzell,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 522. If you deny all or any part of this request, please cite each specific exemption you think justifies your refusal to release the information and notify me of appeal procedures available under the law.

For the person identified by the email address (b) (6) I am seeking the following information as permitted by reference (b):

DoD 5400.11-R, May 14, 2007, C4.2.2.S.1. DoD Civilian Employees:

- C4.2.2.S.1.1.1. Name.
- C4.2.2.S.1.1.2. Present and past position titles.
- C4.2.2.S.1.1.3. Present grade.
- C4.2.2.S.1.1.4. Present annual salary rate.
- C4.2.2.S.1.1.5. Present and past duty stations.
- C4.2.2.S.1.1.6. Office and duty telephone number.
- C4.2.2.S.1.1.7. Current Position Description.

I agree to pay fees for searching or copying the records up to \$200. If the fees exceed this amount please advise me of the cost. I am a private citizen seeking this information. I do not believe that there should be any charge for providing these records.

Please cite the requester control number and include a copy of this request in your reply. This request is an agency record in its own right and providing a copy of this request is an integral part of my FOIA request, which helps to ensure that you fully address my request. Do not reply to more than one requestor control number in a single letter.

Reference (a) states that for requests 'that will require more than ten days for the agency to process to FOIA requires agencies to assign a tracking number to your request. Each agency must provide a telephone number or website by which a requester can use the assigned tracking number to obtain information about the status of a pending request.' DoD 5400.11-R, May 14, 2007, paragraph C3.1.1O. states: "Time Limits. "DoD Components normally shall provide access within 20 working days after receipt of the request. If access cannot be given within the 20 working day period, the requester shall be notified in an interim response." Please provide me a tracking number for this request.

Reference (c) states, "DoD personnel are expected to comply with the FOIA, this Regulation, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust."

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request.

With my respect,

A handwritten signature in black ink that reads "Robert Hammond". The signature is written in a cursive, flowing style.

Robert Hammond

Robert Hammond

(b) (6)

April 11, 2014

Ms. Judy Bizzell
Freedom of Information Act (FOIA) Officer
Walter Reed National Military Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: FOIA Request – Personnel Record Information for

(b) (6)

Requester Control Number: FOIA WRNMC #14-H

- References: (a) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records"
- (b) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
- (c) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
- (d) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation

Dear Ms. Bizzell,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 522. If you deny all or any part of this request, please cite each specific exemption you think justifies your refusal to release the information and notify me of appeal procedures available under the law.

For the person identified by the email address (b) (6) I am seeking all records pertaining to the official duties of this contractor at WRNMMC, including identification of the prime contractor and contract number under which he is employed.

I agree to pay fees for searching or copying the records up to \$200. If the fees exceed this amount please advise me of the cost. I am a private citizen seeking this information. I do not believe that there should be any charge for providing these records.

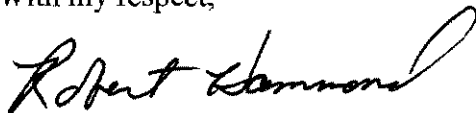
Please cite the requester control number and include a copy of this request in your reply. This request is an agency record in its own right and providing a copy of this request is an integral part of my FOIA request, which helps to ensure that you fully address my request. Do not reply to more than one requester control number in a single letter.

Reference (a) states that for requests “that will require more than ten days for the agency to process to FOIA requires agencies to assign a tracking number to your request. Each agency must provide a telephone number or website by which a requester can use the assigned tracking number to obtain information about the status of a pending request.” DoD 5400.11-R, May 14, 2007, paragraph C3.1.1O. states: “Time Limits. “DoD Components normally shall provide access within 20 working days after receipt of the request. If access cannot be given within the 20 working day period, the requester shall be notified in an interim response.” Please provide me a tracking number for this request.

Reference (c) states, “DoD personnel are expected to comply with the FOIA, this Regulation, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust.”

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request.

With my respect,

A handwritten signature in black ink, appearing to read "Robert Hammond". The signature is fluid and cursive, with the first name "Robert" and last name "Hammond" clearly distinguishable.

Robert Hammond

Robert Hammond

(b) (6)

April 26, 2014

Ms. Judy Bizzell
Freedom of Information Act (FOIA) Officer
Walter Reed National Military Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: FOIA Request - certified mail tracking numbers 7012 1640 0000 9665
1035 and 7012 1640 0000 9665 4524

Requester Control Number: FOIA WRNMC #14-I

References: (a) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records"
(b) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(c) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
(d) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation

Dear Ms. Bizzell,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 522. If you deny all or any part of this request, please cite each specific exemption you think justifies your refusal to release the information and notify me of appeal procedures available under the law.

I am requesting all records from November 26, 2013 to present relating to certified mail tracking number 7012 1640 0000 9665 1035 (mailed on November 26, 2013) and certified mail tracking number 7012 1640 0000 9665 4524 (mailed on January 27, 2014). Information requested includes, but is not limited to:

- Emails regarding package/mail delivery/pick-up, or anything related to the specific certified packages above between any of the following parties: Judy Bizzell, Joe. E. Davidge, Ms. Gully (Mail Services), (b) (6) (mail orderly for FOIA Office), Brigadier General Clark, (b) (6), any member of the command staff or any other party.
- Any material related to inquiry conducted in connection with these packages that may have been initiated by Brigadier General Clark or others;
- Letters or other correspondence including those sent to Brigadier General Clark;

6049, 301-295-4611, 301-295-4000, 301-295-0162.

I agree to pay fees for searching or copying the records up to \$400. If the fees exceed this amount please advise me of the cost. I am a private citizen seeking this information. I do not believe that there should be any charge for providing these records.

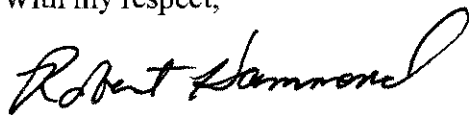
Please cite the requester control number and include a copy of this request in your reply. This request is an agency record in its own right and providing a copy of this request is an integral part of my FOIA request, which helps to ensure that you fully address my request. Do not reply to more than one requestor control number in a single letter.

Reference (a) states that for requests 'that will require more than ten days for the agency to process to FOIA requires agencies to assign a tracking number to your request. Each agency must provide a telephone number or website by which a requester can use the assigned tracking number to obtain information about the status of a pending request.' DoD 5400.11-R, May 14, 2007, paragraph C3.1.1O. states: "Time Limits. "DoD Components normally shall provide access within 20 working days after receipt of the request. If access cannot be given within the 20 working day period, the requester shall be notified in an interim response." Please provide me a tracking number for this request.

Reference (c) states, "DoD personnel are expected to comply with the FOIA, this Regulation, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust."

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request. If you deem that any portion of my request is unclear, answer the remaining portions and I will perfect a request for additional material as needed.

With my respect,

A handwritten signature in black ink, appearing to read "Robert Hammond". The signature is fluid and cursive, with the first name "Robert" and last name "Hammond" clearly distinguishable.

Robert Hammond

Robert Hammond

(b) (6)

April 26, 2014

Ms. Judy Bizzell
Freedom of Information Act (FOIA) Officer
Walter Reed National Military Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: FOIA Request – DVD Chain of Custody

Requester Control Number: FOIA WRNMC #14-J

References: (a) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records"
(b) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(c) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
(d) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation

Dear Ms. Bizzell,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 522. If you deny all or any part of this request, please cite each specific exemption you think justifies your refusal to release the information and notify me of appeal procedures available under the law.

By way of background, my FOIA request "Requester Number WRNMC #13-19" of June 29, 2013 requested a copy of a DVD containing some of my medical records that I had previously provided to Ms. Judy Logeman the WRNMMC Healthcare Resolutions Office on May 14, 2012 in order to facilitate a search for missing records.

I am requesting all records relating to the chain of custody of that DVD including emails or other documents related to the transfer of the DVD to the WRNMMC Medical Records Department, to the FOIA office, to personnel copying the DVD, back to the FOIA office and to mailing in response to my FOIA WRNMC #13-19" of June 29, 2013. Records should be specific as to dates and personnel.

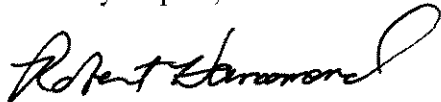
Please cite the requester control number and include a copy of this request in your reply. This request is an agency record in its own right and providing a copy of this request is an integral part of my FOIA request, which helps to ensure that you fully address my request. Do not reply to more than one requestor control number in a single letter.

Reference (a) states that for requests ‘that will require more than ten days for the agency to process to FOIA requires agencies to assign a tracking number to your request. Each agency must provide a telephone number or website by which a requester can use the assigned tracking number to obtain information about the status of a pending request.’ DoD 5400.11-R, May 14, 2007, paragraph C3.1.1O. states: “Time Limits. “DoD Components normally shall provide access within 20 working days after receipt of the request. If access cannot be given within the 20 working day period, the requester shall be notified in an interim response.” Please provide me a tracking number for this request.

Reference (c) states, “DoD personnel are expected to comply with the FOIA, this Regulation, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust.”

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request. If you deem that any portion of my request is unclear, answer the remaining portions and I will perfect a request for additional material as needed.

With my respect,

A handwritten signature in black ink, appearing to read "Robert Hammond", written in a cursive style.

Robert Hammond

Robert Hammond

(b) (6)

April 26, 2014

Ms. Judy Bizzell
Freedom of Information Act (FOIA) Officer
Walter Reed National Military Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: FOIA Request – Performance Standards of Ms. Judy Bizzell

Requester Control Number: FOIA WRNMC #14-K

References: (a) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records"
(b) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(c) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
(d) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation

Dear Ms. Bizzell,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 522. If you deny all or any part of this request, please cite each specific exemption you think justifies your refusal to release the information and notify me of appeal procedures available under the law.

I am requesting the performance standards for Ms. Judy Bizzell for the current and most recent past rating period.

I agree to pay fees for searching or copying the records up to \$400. If the fees exceed this amount please advise me of the cost. I am a private citizen seeking this information. I do not believe that there should be any charge for providing these records.

Please cite the requester control number and include a copy of this request in your reply. This request is an agency record in its own right and providing a copy of this request is an integral part of my FOIA request, which helps to ensure that you fully address my request. Do not reply to more than one requestor control number in a single letter.

must provide a telephone number or website by which a requester can use the assigned tracking number to obtain information about the status of a pending request.” DoD 5400.11-R, May 14, 2007, paragraph C3.1.1O. states: “Time Limits. “DoD Components normally shall provide access within 20 working days after receipt of the request. If access cannot be given within the 20 working day period, the requester shall be notified in an interim response.” Please provide me a tracking number for this request.

Reference (c) states, “DoD personnel are expected to comply with the FOIA, this Regulation, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust.”

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request. If you deem that any portion of my request is unclear, answer the remaining portions and I will perfect a request for additional material as needed.

With my respect,

A handwritten signature in black ink that reads "Robert Hammond". The signature is written in a cursive, flowing style.

Robert Hammond

Robert Hammond

(b) (6)

April 26, 2014

Ms. Judy Bizzell
Freedom of Information Act (FOIA) Officer
Walter Reed National Military Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: FOIA Request – Performance Standards of Mr. Joe. E. Davidge

Requester Control Number: FOIA WRNMC #14-L

References: (a) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records"
(b) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(c) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
(d) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation

Dear Ms. Bizzell,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 522. If you deny all or any part of this request, please cite each specific exemption you think justifies your refusal to release the information and notify me of appeal procedures available under the law.

I am requesting the performance standards for Mr. Joe. E. Davidge for the current and most recent past rating period.

I agree to pay fees for searching or copying the records up to \$400. If the fees exceed this amount please advise me of the cost. I am a private citizen seeking this information. I do not believe that there should be any charge for providing these records.

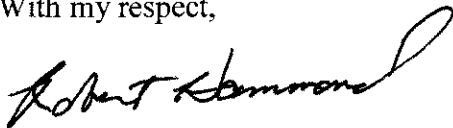
Please cite the requester control number and include a copy of this request in your reply. This request is an agency record in its own right and providing a copy of this request is an integral part of my FOIA request, which helps to ensure that you fully address my request. Do not reply to more than one requestor control number in a single letter.

must provide a telephone number or website by which a requester can use the assigned tracking number to obtain information about the status of a pending request.” DoD 5400.11-R, May 14, 2007, paragraph C3.1.1O. states: “Time Limits. “DoD Components normally shall provide access within 20 working days after receipt of the request. If access cannot be given within the 20 working day period, the requester shall be notified in an interim response.” Please provide me a tracking number for this request.

Reference (c) states, “DoD personnel are expected to comply with the FOIA, this Regulation, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust.”

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request. If you deem that any portion of my request is unclear, answer the remaining portions and I will perfect a request for additional material as needed.

With my respect,

A handwritten signature in black ink, appearing to read "Robert Hammond". The signature is fluid and cursive, with a large, sweeping "H" and a long, trailing flourish at the end.

Robert Hammond

NARA Unauthorized Disposition Complaint. Alteration & Destruction of Records
ICO FOIA Request #14-R to Walter Reed

I. ALLEGATIONS

I am alleging that:

1. The Walter Reed National Military Medical Center (“Walter Reed” or “WRNMMC”) FOIA Officer, **Judy J. Bizzell**, during or prior to litigation¹, destroyed original records related to my FOIA Request WRNMC #14-R of April 28, 2014 or they are in eminent danger of being destroyed.
2. Ten other persons may have similarly destroyed such FOIA records, two of whom (Henry and Roush) were not Walter Reed employees.
3. **Judy J. Bizzell** materially altered during litigation evidentiary Court records related to my FOIA Request WRNMC #14-R.

While Walter Reed is currently a subordinate entity of Defense Health Agency (DHA), they each have their own accountable records officers/managers.

II. ACTIONS SOUGHT

1. Notify WRNMMC within 5 working days.
2. Provide me a point of contact by return email to discuss this matter and clarify as needed.
3. Permit me to discuss the Agencies’ replies prior to deciding on this complaint to preclude the likely provision of misinformation, as has been done in the past.
4. Seek to recover records from Ms. Bizzell, ten other identified persons, back-up email servers, and from a DVD in the possession of Ms. Bizzell’s supervisor, Joseph E. Davidge.
5. If any records have not been destroyed, seek that Walter Reed provide to you each specifically enumerated record/record set in their possession. Absent the Accused Parties producing each specifically enumerated record/record set for your verification to prove their existence, NARA may be mis-lead (as DOD has done in the past, claiming that records were posted a website when they were not). There is already considerable evidence of inaccurate testimony and alteration of records by Accused Parties. They cannot be trusted, in my view.

III. IDENTIFICATION OF RECORDS

I sent my FOIA Request WRNMC 14-R to Judy Bizzell by email on 4/28/2014 5:36:58 AM (attached for NARA hereto as Hammond April 28, 2014 email, FOIA Request WRNMC #14-R).

My 4/28/2014 5:36:58 AM email contained my 23-page FOIA request as an attachment and identifies that attachment as WSRNMC 14 -R.pdf (attached for NARA hereto).²

¹ Case 16-421 KBJ in the District Court of Colombia. All records are available from PACER.gov.

² If Walter Reed disputes the authenticity of the true 23-page attachment (WSNMRC 14 -R.pdf), I am prepared to provide NARA my original MS Outlook email with that attachment to confirm from its metadata the authenticity of the email and the attachment WSNMRC 14 -R.pdf, which Ms. Bizzell altered during litigation. The file properties

During litigation, Ms. Bizzell cited as a responsive litigation record her email of May 23, 2014 forwarding my 4/28/2014 5:36:58 AM email (Subject: FOIA Request WRNMC #14-R) with my attachment thereto to [at least] nine persons. In her May 23, 2014 email, Ms. Bizzell seeks responses from addressees related to that FOIA Request WRNMC #14-R. [Second Bizzell Declaration, ECF 18-1 ¶22; Third Bizzell Declaration, ECF 25-2 at 15 n.4.]

Ms. Bizzell also cited during litigation her May 30, 2014 follow-up to her May 23, 2014 email.

The nine persons to whom Ms. Bizzell sent her May 23, 2014 7:30 PM email, who would also have Ms. Bizzell's original May 23, 2014 email with attachment thereto include:

1. Franz, Charles P US CPT USA;
2. Moidel, Barbara I CIV US WRNMMC;
3. Floyd, Cornell J CIV US WRNMMC;
4. Logeman, Judy A CIV US WRNMMC;
5. Davidge, Joe E CIV US WRNMMC;
6. McCall, Thurman S CTR US WRNMMC;
7. Roush, Matthew R LT OJAG, Code 14 (matthew.roush@navy.mil);
8. Henry, Kurt A. CAPT BUMED;
9. Bernstein, Dina L CIV US WRNMMC.

A tenth person, Brice A. Goodwin (b) (6), is also alleged to have potentially received Ms. Bizzell's May 23, 2014 7:30 PM email either as a blind copy or through separate forwarding.

After Ms. Bizzell's Third Declaration (wherein Ms. Bizzell inaccurately stated that certain records had been produced or promised to release records but did not do so), the Court ordered me (Plaintiff) to identify all outstanding records that Defendants had not produced and ordered Defendants (Walter Reed, et. al.) to produce them. [Dkt. Nos. 29 and 30]. With respect to my FOIA Request WRNMC #14-R, such records that Walter Reed was to produce (but has not, and may have then been destroyed based on Ms. Bizzell's sworn Fourth Declaration) include:

- *Original email from Judy Bizzell dated May 23, 2014 [see ECF 18-1 ¶22] and attachment(s) thereto. See ECF 25-2 at 15 n.4.*
- *Original email from Ms. Bizzell dated May 23, 2014, 7:29:39 PM, including any blind copy addressees or attachments thereto. See supra § I.*
- *Any and all email responses to Ms. Bizzell's May 23, 2014 email, including subsequent correspondence related thereto, and in particular from (1) Charles P. Franz, US CPT USA; (2) Cornell J. Floyd, CIV US WRNMMC; (3) Matthew R. Roush, LT OJAG, Code 14 (matthew.roush@navy.mil); (4) Dina L. Bernstein, CIV US WRNMMC; (5) Joe E. Davidge, CIV US WRNMMC; and (6) Brice A. Goodwin (Brice.A.Goodwin.mil@health.mil).*

of the records that I am providing NARA (WSNMRC 14 -R.pdf), shows that it was created 4/28/2014 at 5:36.42 AM, sixteen seconds before my email.

- *Ms. Bizzell's contemporaneous notes and any other records related to her May 30, 2014 follow-up to her May 23, 2014 email.*

Records destroyed and/or potential false statements under oath.

1. **Records destroyed:** *"Original email from Judy Bizzell dated May 23, 2014 [see ECF 18-1 ¶22] and attachment(s) thereto.1 See ECF 25-2 at 15 n.4."*
 - a. Walter Reed's FOIA Officer, Judy Bizzell, stated that **under oath** that she could not locate her Original May 23, 2014 email, meaning, if true, she **personally destroyed** her original email (subject to FOIA records retention), as evidently did all nine or ten recipients of that email.
 - b. Fourth Bizzell Declaration ¶ 5 states: *"Plaintiff requested 'the Original email from Judy Bizzell dated May 23, 2014 [see ECF 18-1 ¶ 22] and any attachments thereto. This email was referenced in Third Bizzell Declaration ¶27, note 4. After a thorough search of the agency's shared system, **I cannot locate the original email** I sent. A copy of this email embodied in a response emails is attached as Exhibit D, along with the document I know I attached to my May 23, 2014 email."*
 - c. As Ms. Bizzell admits, *"Exhibit D"* is not the original email. It is a confused response to Ms. Bizzell from Ms. Logeman, *"I don't completely understand item #1."*
 - d. I am including for NARA a copy of Ms. Bizzell's cited Dkt. No. 32-7, Exhibit D.
 - e. Note, Ms. Bizzell's alleged "attachment" to her May 23, 2014 email at Exhibit D is discussed separately below under "alteration of records."
2. **Records destroyed:** *"Original email from Ms. Bizzell dated May 23, 2014, 7:29:39 PM, including any blind copy addressees or attachments thereto. See supra § I."*
 - a. In her response regarding this record, Ms. Bizzell falsely states under oath that she provided the records as her "Exhibit D," even though, in contradiction (as identified above), she states under oath in Fourth Bizzell Declaration ¶ 5 that she did **not** provide the *"original email including blind copies or attachments thereto"* as her Exhibit D.
 - b. Fourth Bizzell Decl. ¶ 16, addressing Paragraph F of Plaintiff's List of Outstanding Records, falsely states, *"The email referenced in bullet number two, dated May 23, 2014 is attached as Exhibit D."* Bizzell's statement is materially false.
 - c. I am including for NARA a copy of Ms. Bizzell's cited Dkt. No. 32-7, Exhibit D.
 - d. Note, Ms. Bizzell's alleged "attachment" to her May 23, 2014 email at Exhibit D is discussed separately below under alteration of records.
3. **Records destroyed:** *"Any and all email responses to Ms. Bizzell's May 23, 2014 email, including subsequent correspondence related thereto, and in particular from (1) Charles P. Franz, US CPT USA; (2) Cornell J. Floyd, CIV US WRNMMC; (3) Matthew R. Roush, LT OJAG, Code 14 (matthew.roush@navy.mil); (4) Dina L. Bernstein, CIV US WRNMMC; (5) Joe E. Davidge, CIV US WRNMMC; and (6) Brice A. Goodwin (Brice.A.Goodwin.mil@health.mil)."*
 - a. Ms. Bizzell falsely states under oath that she provided the records as her "Exhibit G."

- b. Exhibit G does not contain any records whatsoever related to the six “*in particular*” persons identified in records sought (i.e., Franz, Floyd, Roush, Bernstein, Davidge, Goodwin).
 - c. Exhibit G does contain an May 27, 2014 11:03:44 AM confirmed receipt from Logeman, Judy A CIV US WRNMMC to a May 27, 2014 10:35:00 email from Ms. Bizzell, “Subject: **RE:** FOIA Request WRNMC #14-R,” documenting that Ms. Bizzell replied to Ms. Logeman’s earlier May 24, 2014 10:36:28 AM email to Ms. Bizzell. Ms. Bizzell has not released her May 27, 2014 10:35:00 AM email to Ms. Logeman, “Subject: **RE:** FOIA Request WRNMC #14-R” that Logeman confirmed receipt (Dkt. No. 32-9, Exhibit G at 8). Bizzell’s and Logeman’s copies of that Bizzell May 27, 2014 10:35:00 AM email to Logeman are alleged to have been destroyed, based on Ms. Bizzell’s sworn Fourth Declaration. Any additional correspondence, such as a subsequent reply from Logeman to Bizzell, is also presumed destroyed.
 - d. Relevant correspondence between Bizzell and the nine persons identified in her May 23, 2014 email (plus Goodwin) is presumed destroyed or in danger of being destroyed.³
4. **Records destroyed:** “*Ms. Bizzell’s contemporaneous notes and any other records related to her May 30, 2014 follow-up to her May 23, 2014 email.*”
- a. Bizzell recalled the exact date of her *May 30, 2014 follow-up to her May 23, 2014 email* three years later in her sworn Second Bizzell Declaration of February 26, 2017.
 - b. When ordered by the Court to produce such records, Bizzell then states under oath (unbelievably) that she cannot locate these records. They are therefore presumed destroyed (unless produced to NARA).
 - c. Fourth Bizzell Decl. ¶ 16 states, “*I searched my computer and hard copy documents for any responsive records of this type and located none.*”
 - d. In addition to Bizzell, the ten above named parties would also have such records.

Bizzell’s alteration of records during Court proceedings – FOIA Request #14-R (WSRNMC 14 -R.pdf).

Judy, J. Bizzell, during litigation, altered records by substituting an attachment to my April 28, 2014 5:37 AM email to her (true attachment “WSRNMC 14 -R.pdf”) with a different record (presumed to be FOIA WRNMC 14 B- L.pdf) and then swore under oath to the authenticity of the improperly substituted, false record (stating it was “*the document I know I attached to my May 23, 2014 email,*”) to produce a materially altered evidentiary record for the Court. [Dkt. No. 32-7, Exhibit D, pages 3 – 25 (altered Court evidentiary record)].

³ Exhibit G also contains a May 22, **2017** 5:20:25 PM email at the last page (page 9) that has nothing whatsoever to do with this matter. That 2017 email (from Walter Reed’s Mail Services Supervisor, [Gulley, Meki C CIV USN NSA BETHESDA MD \(US\) to Bizzell, Judy J CIV DHA NCR MEDICAL DIR \(US\) Cc: Cygnarowicz, Paul T CIV \(US\)](#) **Subject:** Requested Tracking Numbers) deals instead with alleged destruction of mailroom and other records subject to a separate FOIA request related to certified packages. Ms. Bizzell (apparently in coordination with Agency Counsel Paul t. Cygnarowicz) made a seeming false statement under oath claiming this to be a record of “*email responses to Ms. Bizzell’s May 23, 2014 email ...*” In doing so, Bizzell/Cygnarowicz deceptively bury evidence related to that separate matter.

As noted, Ms. Bizzell's May 23, 2014 email forwarded to nine persons (and potentially to Brice Goodwin) my April 28, 2014 5:37 AM email to her with my true attached FOIA request (WSRNMC 14 -R.pdf). The subject of Bizzell's May 23, 2014 email is "Subject **FW:** FOIA Request WRNMC #14-R." [Dkt. No. 32-7. Exhibit D at page 2].

However, the record that Bizzell states under oath is "*the document I know I attached to my May 23, 2014 email,*" is NOT my 23-page FOIA request (WSRNMC 14 -R.pdf) attached to my April 28, 2014 5:37 AM email. For Ms. Bizzell to have forwarded the attachment that she cites (which has no relationship to my FOIA request #14-R), she would have had to first physically removed the true attachment to my email (WSRNMC 14 -R.pdf). Original records of Ms. Bizzell's May 23, 2014 email with my true attached email should document instead that Ms. Bizzell altered Court evidentiary records by creating a new, altered record (Dkt. No. 32-7. Exhibit D) with the false attachment appended to a copy of my April 28, 2014 email to her, and she then falsely swore under oath as to the authenticity of the altered record (Dkt. No. 32-7, Exhibit D at 3 (copy of my April 28, 2014 5:37 AM email to Ms. Bizzell, Subject: FOIA Request WRNMC #14-R); Dkt. No. 32-7, Exhibit D at 4 -25 (materially altered false record attachment).

The false attachment deals with several different FOIA requests (WRNMC #14-B thru WRNMC #14-L) and not with FOIA Request WRNMC #14-R. The narrative of Ms. Bizzell's May 23, 2014 email forwarding my April 28, 2014 5:37 AM email matches the true attachment (WSRNMC 14 -R.pdf), not the altered record entered in Court evidence by her.

Significantly, my FOIA Request WRNMC #14-R seeks records related to an alleged 2013 Privacy Act violation by Ms. Bizzell's supervisor, Joseph E. Davidge. In addition to being Ms. Bizzell's supervisor, Mr. Davidge is Walter Reed's Privacy Compliance Administrator, responsible for investigating alleged Privacy Act violations/complaints and reporting them to Congress.⁴ ("Joe Davidge, Special Assistant to the Commander, Privacy Compliance Administrator, Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office, Walter Reed National Military Medical Center"). The subject of my FOIA Request WRNMC #14-R is, "*Disclosures Related to[email] From: (b) (6) email Sent: 12/11/2013 6:15:44 P.M. Eastern Daylight Time, Subj: RE: Medical records.*" In as much as the instant litigation deals, in part, with another Privacy Act violation and the accuracy/inaccuracy of Privacy Act reporting generally, there appears to be strong motivation for Ms. Bizzell and her supervisor, Joseph E. Davidge, to keep the true attachment of my FOIA Request #14-R from the Court.

Nevertheless, the records that I am providing you of my original April 28, 2014 5:37 AM email and the original attachment thereto (WSRNMC 14 -R.pdf) are sufficient to incontrovertibly document that Ms. Bizzell materially altered Court evidentiary records. Matters of intent and participation by others may be appropriate for referral to/review in a different venue.

Additional copy of my original April 28, 2014 5:37 AM email via DVD.

In addition to sending my April 28, 2014 5:37 AM email with my attached FOIA Request WRNMC #14-R, (WSRNMCMC 14 -R.pdf), I provided Ms. Bizzell copies of my emails to a point in time via DVD on 2/11/2016 in certified package 7012 1640 0000 9665 4500 with restricted delivery to her. Ms. Bizzell's supervisor, Joseph E. Davidge, purportedly took custody of that certified package, even though it was sent restricted delivery to Ms. Bizzell. NARA's inquiry should address whether Walter Reed also destroyed the DVD copy of my original April 28, 2014 5:37 AM email with its attachment.

Multiple notices to preserve records. I have provided Walter Reed and DHA numerous notices to preserve all records related to my FOIA Request WRNMC #14-R, should there be any dispute about that requirement. Nevertheless, here I am addressing records in active litigation that have allegedly been destroyed and/or altered.

IV. APPLICABLE RETENTION SCHEDULE, NARA GRS 4.2 Item 20

020	Access and disclosure request files. Case files created in response to requests for information under the Freedom of Information Act (FOIA), Mandatory Declassification Review (MDR) process, Privacy Act (PA), Classification Challenge, and similar access programs, and completed by: • granting the request in full • granting the request in part • denying the request for any reason including: o inability to fulfill request because records do not exist o inability to fulfill request because request inadequately describes records o inability to fulfill request because search or reproduction fees are not paid	Temporary. Destroy 6 years after final agency action or 3 years after final adjudication by the courts, whichever is later, but longer retention is authorized if required for business use.	DAA-GRS-2016-0002-0001
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V. 32 CFR PART 286—DOD FREEDOM OF INFORMATION ACT (FOIA) PROGRAM

32 CFR §286.6 Preservation of records.

Each DoD Component shall preserve all correspondence pertaining to the requests that it receives under this part, as well as copies of all requested records, until disposition or destruction is authorized pursuant to title 44 of the United States Code or the General Records Schedule 4.2 of the National Archives and Records Administration (NARA). Records shall not be disposed of or destroyed while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

VI. 36 CFR § 1230. UNLAWFUL OR ACCIDENTAL REMOVAL, DEFACING, ALTERATION, OR DESTRUCTION OF RECORDS

36 CFR § 1230.3

Unlawful or accidental destruction (also called unauthorized destruction) means disposal of an unscheduled or permanent record; disposal prior to the end of the NARA-approved retention

period of a temporary record (other than court-ordered disposal under § 1226.14(d) of this subchapter); and disposal of a record subject to a **FOIA request**, litigation hold, or any other hold requirement to retain the records.

VII. 44 U.S. CODE § 3106 - UNLAWFUL REMOVAL, DESTRUCTION OF RECORDS

(a) FEDERAL AGENCY NOTIFICATION.—

The head of each Federal agency shall notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, corruption, deletion, erasure, or other destruction of records in the custody of the agency, and with the assistance of the Archivist shall initiate action through the Attorney General for the recovery of records the head of the Federal agency knows or has reason to believe have been unlawfully removed from that agency, or from another Federal agency whose records have been transferred to the legal custody of that Federal agency.

(b) ARCHIVIST NOTIFICATION.—

In any case in which the head of a Federal agency does not initiate an action for such recovery or other redress within a reasonable period of time after being notified of any such unlawful action described in subsection (a), or is participating in, or believed to be participating in any such unlawful action, the Archivist shall request the Attorney General to initiate such an action and shall notify the Congress when such a request has been made.

([Pub. L. 90–620](#), Oct. 22, 1968, [82 Stat. 1298](#); [Pub. L. 98–497](#), title I, [§ 107\(b\)\(21\)](#), title II, [§ 203\(b\)](#), Oct. 19, 1984, [98 Stat. 2290](#), 2294; [Pub. L. 113–187](#), [§ 4](#), Nov. 26, 2014, [128 Stat. 2009](#).)

VIII. 18 U.S. Code § 1519 - Destruction, alteration, or falsification of records

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both. 18 U.S. Code § 1519 - Destruction, alteration, or falsification of records. (Added Pub. L. 107–204, title VIII, §802(a), July 30, 2002, 116 Stat. 800.).

IX. 18 U.S.C. 641 and 2071. The penalties for the unlawful or accidental removal, defacing, alteration, or destruction of Federal records or the attempt to do so, include a fine, imprisonment, or both (18 U.S.C. 641 and 2071).

This is unauthorized disposition complaint is submitted upon presumption, belief, and records available to me.

Thank you for your integrity and your careful review of these matters.

With my respect,

/s/

Robert Hammond
Whistleblower

Included records for NARA:

- Hammond April 28, 2014 email, FOIA Request WRNMC #14-R
- FOIA WSRNMC 14 -R.pdf [attached to April 28, 2014 email]
- Dkt. No. 32-7, Exhibit D
- Dkt. No. 32-9, Exhibit G

(b) (6)

From: (b) (6)
Sent: Monday, April 28, 2014 5:37 AM
To: judy.j.bizzell.civ@health.mil
Subject: FOIA Request WRNMC #14-R
Attachments: FOIA WSRNMC 14 -R.pdf

Dear Ms. Bizzell,

Please see attached. Your FAX machine is not connected.

With my respect,

Robert Hammond

Unauthorized Dispositions: UD-2021-0018, 19, 20. Litigation??

perseverance2013 via Unauthorized Disposition <UnauthorizedDisposition@nara.gov> Sun, May 9, 2021 at 9:22 PM
Reply-To: (b) (6)
To: laurence.brewer@nara.gov, UnauthorizedDisposition@nara.gov, Andrea Riley <andrea.riley@nara.gov>, GRS_Team
GRS_Team@nara.gov
Cc: (b) (6)

(Best viewed as HTML)

Mr. Brewer & NARA team,

With my deep respect...

The web shows for the above three cases "Ongoing Litigation." **36 CFR Part 1230** is **not** an issue before the Court.

First, regarding that ongoing FOIA litigation, final case records including (cross motion for summary judgement) were submitted to the Court last August. Second, a determination as to whether records have been altered or destroyed is a matter for NARA not the Court in a FOIA de novo review of declarations submitted by the agency. FOIA is different from other litigation. There is no calling of witnesses, cross-examination, etc. The agency may submit or not submit whatever it wants in the way of declarations.

The agency either destroyed and/or altered records or they did not. Your investigations will document conclusively that the agencies both altered and destroyed records.

There is no basis or anything in statute or CFR that I am aware of for NARA to halt investigation of these allegations.

I am respectfully asking NARA to continue your investigations. Please respond at your earliest opportunity.

Thank you for your integrity and diligence in looking into these matters

With my deep respect,

Robert Hammond

From: (b) (6) (b) (6)
Sent: Wednesday, January 27, 2021 6:11 AM
To: 'UnauthorizedDisposition@nara.gov' <UnauthorizedDisposition@nara.gov>; 'Andrea Riley' <andrea.riley@nara.gov>; 'GRS Team' <GRS_Team@nara.gov>
Cc: (b) (6)
Subject: FW: NARA Complaint ICO Walter Reed Destruction of Records. FOIA RE Certified Packages

(Best Viewed in HTML)

In furtherance to emails below:

Suffice it to say that records include:

- the records relied upon by Ms. Meki Gulley in her February 21, 2014 conversation with (b) (6) USPS, in which he stated that, "the Certify with label # 70121640000096654524 was picked up on February 12, 2012 by (b) (6). The Certify with label # 70121640000096651035 was picked up on December 17, 2013 by (b) (6)." Compl Ex. 18, at 11.

Thank you for your integrity and your diligence as you move forward with your investigation.

With my respect,

Robert Hammond

Whistleblower

From: (b) (6)
Sent: Saturday, January 16, 2021 9:59 PM
To: 'UnauthorizedDisposition@nara.gov' <UnauthorizedDisposition@nara.gov>; 'Andrea Riley' <andrea.riley@nara.gov>; 'GRS Team' <GRS_Team@nara.gov>
Cc: (b) (6)
Subject: RE: NARA Complaint ICO Walter Reed Destruction of Record FOIA RE Certified Package

Best Viewed in HTML. Also see attachments. Pls have case manager for this complaint contact me to arrange a phone call.

In furtherance to email of January 16, 2021 3:52 PM below:

1. Please notify the Agency by phone within 5 days. Actual, impending, or threatened damage, alienation, or unauthorized destruction of record
2. Please see attached Corrected complaint more succinctly stating the allegation for NARA to summarize in your contact with the Agency.
3. Please accurately state my allegation. If you omit the names and positions, it might read:

We have received an allegation that, despite numerous notices to preserve records, Walter Reed National Military Medical Center, named individuals and others, destroyed records in anticipation of and during litigation and that further records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction for an April 26, 2014 FOIA request with the Requester Number FOIA WRNMC #14-1 seeking records related to certified mail tracking numbers 7012 1640000096651035 and 70121640000096654524 and the August 16, 2014 FOIA Appeal thereof. Records include those records that would indicate what actions, if any, Defendants, (including named individuals) took upon being notified of a potential Privacy breach in being unable to locate the two certified packages to one of which contained the Original 2012 DVD of a patient's medical records and the other contained sensitive documents. See District of Columbia Civil Action No 16 421 KBJ, Dkt No 1, Complaint Ex 18, at 3, 4, 6, 7 4 and 19 44 (attached).

Additionally, records of notices to preserve records, the forwarding of those notices and any actions taken in response to them, and numerous records of Walter Reed's FOIA Officer's actions/searches/contacts with others cited with exact dates in her declarations three years later during litigation, are alleged to have been destroyed or are in imminent danger of being destroyed. No one could recall such exact dates of actions/searches/contacts three years later during litigation without records, yet when sought during litigation in response to those declarations, records are missing.

From (b) (6)
Sent: Saturday, January 16, 2021 3:52 PM
To: UnauthorizedDisposition@nara.gov; 'Andrea Riley' <andrea.riley@nara.gov>; 'GRS_Team' <GRS_Team@nara.gov>
Cc: (b) (6)
Subject: NARA Complaint ICO Walter Reed Destruction of Record FOIA RE Certified Package
Importance: High

Best Viewed in HTML. Also see attachments. Pls have case manager for this complaint contact me to arrange a phone call.

Actual, impending, or threatened damage, alienation, or unauthorized destruction of records.

NARA Complaint ICO Walter Reed Destruction of Records. FOIA RE Certified Packages

I. ALLEGATION.

I am alleging that, despite numerous notices to preserve records, Walter Reed National Military Medical Center, named individuals: FOIA Officer Judy, J. Bizzell, Privacy Officer, Joseph E. Davidge, former Commander Brigadier General Clark, Mail Room Supervisor Meki Gulley, FOIA Office mail orderly, (b) (6), and others, destroyed records in anticipation of and during litigation and that further records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction for my April 26, 2014 FOIA request with my Requester Number FOIA WRNMC #14-1 seeking records related to certified mail tracking numbers 7012 1640000096651035 and 70121640000096654524 and my August 16, 2014 FOIA Appeal thereof. My Request seeks records that would indicate what actions, if any, Defendants, (including Walter Reed's Director, Brigadier General Clark and Walter Reed's Privacy Compliance Administrator, Joseph E. Davidge) took upon being notified of a potential Privacy breach in being unable to locate the two certified packages to one of which contained the Original 2012 DVD of my medical records and the other contained sensitive documents. *See* District of Columbia Civil Action No. 16-421-KBJ, Dkt. No. 1, Complaint Ex. 18, at 3, 4, 6, 7 4 and 19 – 44 (attached).

Additional records cited by Walter Reed's FOIA Officer in her declarations (Bizzell Decl.) related to specific dates where she acted three years prior to her declarations (as enumerated in Dkt. No. 30, Plaintiff's List of Outstanding Records, Paragraph H) have either already been destroyed or are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction as Bizzell now states that such records do not exist, including:

- Contemporaneous notes, memos or any other records related to Ms. Bizzell's discussions [communications] with Ms. Gully and (b) (6) concerning the above certified mail tracking numbers, which took place on or about May 22, 2014; May 26, 2014; June 12, 2014; June 24, 2014; July 15, 2014; August 12, 2014; August 21, 2014; February 18, 2015; April 7, 2015; May 11, 2015; and November 6, 2015. [*See* ECF 18-1, Second Bizzell Decl., ¶¶ 29-33 dated **February 28, 2017**]
- Contemporaneous notes, memos or any other records related to the search of the USPS tracking website that Ms. Bizzell alleges she performed on May 30, 2014. *See* ECF 18-1 ¶ 23. [dated **February 28, 2017**]
- Records relied upon by Ms. Gulley on May 22, 2017, in acknowledging receipt of certified package 7012 1640 0000 9665 4524. *See* ECF 25-2 ¶32. [Third Bizzell Decl.]

Additionally, records of my February 15, 2015, April 5, 2015 and May 10, 2015 notices Walter Reed's FOIA Officer and others to preserve records for judicial review, including any forwarding or action taken as a

result of them have either already been destroyed or are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction,

Walter Reed and Defense Health Agency legal staff, including Agency Counsel Paul Thomas Cygnarowicz, MD Bar 12- 9212150146, allegedly have participated in, are participating in, or believed to be participating in any such unlawful action, in part by falsely claiming in court documents that Walter Reed is not required to retain records subject to FOIA, and as officers of the Court are required to have reported such unlawful destruction of records of which they have knowledge, including destruction of records during litigation. There is no attorney/client shield for participating in unlawful acts, if true, in my view.

The Agency's citations during litigation to not being required to retain records sought under FOIA and to deleting them under their records schedules indicates that they are actively deleting records that are subject to FOIA retention irrespective of the otherwise normal retention schedule. Further records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction. See Attachment A. "Actual and Imminent Destruction of Mail Room & Other Records."

This alleged and apparently admitted destruction occurred and may be ongoing despite numerous notices to preserve records. Mail Room Supervisor Meki Gulley states that hard copy mail records responsive to this FOIA request were destroyed/shredded not only after they were sought via FOIA but after litigation commenced on March 2, 2016.

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II. IDENTIFICATION OF RECORDS.

I am seeking that in response to this NARA complaint, IAW 36 CFR 1230.16, Walter Reed account for (and produce if not destroyed) each of the specific records below sought in my FOIA request and appeal, which were known to exist at the time of my Request and Appeal and litigation.

Information Requested via FOIA. In my FOIA request, I am requesting all records from November 26, 2013 to present relating to certified mail tracking number 7012 1640 0000 9665 1035 (mailed on November 26, 2013) and certified mail tracking number 7012 1640 0000 9665 4524 (mailed on January 27, 2014). Information requested includes, but **is not limited to:**

- *Emails regarding package/mail delivery/pick-up, or anything related to the specific certified packages above between any of the following parties: Judy Bizzell, Joe. E. Davidge, Ms. Gully (Mail Services), (b) (6) (purported mail orderly for FOIA Office), Brigadier General Clark, (b) (6), any member of the command staff or any other party.*
- *Any material related to inquiry conducted in connection with these packages that may have been initiated by Brigadier General Clark or others;*
- *Letters or other correspondence including those sent to Brigadier General Clark;*
- *Records of phone logs for the telephones assigned to the above personnel and (b) (6)*
(b) (6)

See Dkt. No. 1, Complaint Ex. 18, at 2.

Plaintiff further delineates such records in his appeal where such records may be located, stating:

Specific Information Known by WRNMMC to Exist.

1. Mail Room Records. The WRNMMC Mail Room is required to (and does) maintain records of certified mail received from USPS. The mail room notifies the parties to whom the mail is addressed and/or their designated mail orderly to pick up mail. This notification is done by email. The mail room obtains signatures from personnel who pick up certified mail and maintains logs. The mail room returns USPS form PS Form 3811 Domestic Return Receipt forms and maintains appropriate records. These are agency records subject to FOIA. Attachment C clearly demonstrates that the mail room received both packages. According to statements made by (b) (6), USPS Consumer and Industry Contact Northern Virginia District (b) (6) and Ms. Gully (WRNMMC Mail Services), both packages were picked up by (b) (6) (purportedly the mail orderly for the WRNMMC FOIA/PA Office). WRNMMC FOIA/PA Office did not conduct a search for mail room records.

2. WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office Records. Both packages were addressed to Ms. Bizzell in the FOIA Office, who states that she did not receive them (see Attachment E). For the FOIA Officer to suggest that the packages were not received in that office can only mean that my medical records are missing or have been compromised and that appropriate Privacy Act breach reporting is required. WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office did not conduct a search of the HIPAA/Privacy Act/FOIA/Civil Liberties Office for records related to the packages, including the DVD containing my PHI/PII and other contents of the packages containing my PHI/PII.

3. Records of Letters or Other Correspondence Including Those Sent to Brigadier General Clark. Please see the fax cover page images at Attachment D showing some letters that were sent to the Office of Brigadier General Clark. Please also see the USPS Form 3811, Certified Mail Receipt, for correspondence relevant to this FOIA request and the potential loss or compromise of my medical records referenced above. Upon receipt, these became agency records in WRNMMC possession that are clearly subject to FOIA. I am seeking the "Received Fax" agency records and received correspondence agency records. Moreover, WRNMMC is required to (and does) log in, file under appropriate record retention schedule and assign action to every correspondence addressed to the Commander. Such records are official agency records and required by law to be maintained. Moreover, there are records related to the assignment by the Command staff for action to be completed by WRNMMC action officers and records of completed action. This would be done by email or route sheet with a cover page. WRNMMC FOIA Office did not search for these agency records, bring them into the FOIA case file and provide them in response to my FOIA request.

4. Records of Phone Logs. Attachment C clearly shows that phone calls between the referenced numbers were made. WRNMMC FOIA Office did not conduct a search for phone records (likely provided by DISA).

5. Inquiry Initiated by Brigadier General Clark or His Staff. Please refer to Attachment D. To suggest that no inquiry or action of any kind was initiated by WRNMMC for this important HIPAA/Privacy Act issue is troubling and improbable. WRNMMC FOIA Office did not conduct a reasonable search for these records in the Office of the Commander, the legal office, PA Office, etc.

6. Records of Emails. Agency email records clearly exist, including emails that I sent to Ms. Bizzell and any forwarding of those emails. Please see Attachment E. Moreover, emails may exist related to other actions taken by Ms. Bizzell or personnel in the PA Office. These are agency records that must be maintained. To suggest that I may have some records that were not provided incident to my FOIA request is nonresponsive. I am seeking copies of the agency records that were brought under agency record retention schedules. WRNMMC must locate all such emails, maintain them in their FOIA case file and provide copies to me in response to my FOIA request. Any emails that have been deleted by the respective parties should be retrieved from WRNMMC backup email servers.

7. Records of Contact with the Defense Health Agency HIPAA/Privacy Act/FOIA/Civil Liberties Office.

8. A Dated, Serialized and Signed Copy of the WRNMMC Letter at Attachment B.

See Dkt. No. 1, Complaint Ex. 18, at 3, 4.

As to certified mail records, Defendants maintain extensive electronic records. Walter Reed: (1) maintains PS Form 3883, Firm Delivery Receipt for Accountable and Bulk Delivery Mail upon receiving packages from USPS, identifying the article

number article number and delivery “mail for,” which is signed and dated by the Mail Services person receiving the packages; (2) scans each certified mail package, including the signature of the Walter Reed employee when the employee pick up the package; (3) add an internal bar coded label to the certified package with the name of the person to receive the mail and the office for tracking in an internal mail delivery system; (4) maintains USPS Form 3849 Delivery Notice/Reminder/Receipt, which records the signature of the person picking up the package, and; (5) maintains emails to and from the Mail Services Manager, Ms. Meki Gulley. See Dkt. No. 22-2, Hammond Decla. ¶¶ 64, 65; Dkt. No. 24-8, Ex. B 7; Dkt No 22 3 ¶¶ 197, 198

The above record may have been destroyed or are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction, as Bizzell/Gulley claim that they do not exist.

III. SUPPORTING RECORDS

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The attached supporting document “Destruction of Records” documents the incontrovertible existence of records at the time of my FOIA request and appeal, numerous specific notices to Walter Reed to preserve them for judicial review, Walter Reed acknowledgements of such preservation notices, Walter Reed statements that they are not required to preserve records and a statement by Mail Room Supervisor Meki Gulley that PAPER records were destroyed AFTER the start of litigation on March 2, 2016. Citations therein are to Case 1:16-cv-00421-KBJ documents available at Pacer.gov.

16-421-KBJ, Dkt. No. 1, Complaint Ex. 18 is attached.

IV. APPLICABLE RETENTION SCHEDULE, NARA GRS 4.2 Item 20

020	Access and disclosure request files. Case files created in response to requests for information under the Freedom of Information Act (FOIA), Mandatory Declassification Review (MDR) process, Privacy Act (PA), Classification Challenge, and similar access programs, and completed by: <ul style="list-style-type: none">• granting the request in full• granting the request in part• denying the request for any reason including: o inability to fulfill request because records do not exist o inability to fulfill request because request inadequately describes records o inability to fulfill request because search or reproduction fees are not paid	Temporary. Destroy 6 years after final agency action or 3 years after final adjudication by the courts, whichever is later, but longer retention is authorized if required for business use.	DAA-GRS-2016-00020001
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V. 36 CFR § 1230.3

Unlawful or accidental destruction (also called unauthorized destruction) means disposal of an unscheduled or permanent record; disposal prior to the end of the NARA-approved retention period of a temporary record (other than court-ordered disposal under § 1226.14(d) of this subchapter); and disposal of a record subject to a **FOIA request**, litigation hold, or any other hold requirement to retain the records.

VI. 44 U.S. CODE § 3106 - UNLAWFUL REMOVAL, DESTRUCTION OF RECORDS

(a)FEDERAL AGENCY NOTIFICATION.

The head of each Federal agency shall notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, corruption, deletion, erasure, or other destruction of records in the custody of the agency, and with the assistance of the Archivist shall initiate action through the Attorney General for the recovery of records the head of the Federal agency knows or has reason to believe have been unlawfully removed from that agency, or from another Federal agency whose records have been transferred to the legal custody of that Federal agency.

(b)ARCHIVIST NOTIFICATION.

In any case in which the head of a Federal agency does not initiate an action for such recovery or other redress within a reasonable period of time after being notified of any such unlawful action described in subsection (a), or is participating in, or believed to be participating in any such unlawful action, the Archivist shall request the Attorney General to initiate such an action, and shall notify the Congress when such a request has been made.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1298; Pub. L. 98–497, title I, § 107(b)(21), title II, § 203(b), Oct 19, 1984, 98 Stat 2290, 2294; Pub L 113 187, § 4, Nov 26, 2014, 128 Stat 2009)

I would like to speak with the case manager handling this complaint, which may be LAURENCE BREWER Chief Records Officer for the U S Government or a subordinate Please email me with contact information and an available time.

This is submitted upon information, belief and records available to me

With my respect,

/s/

Robert Hammond

January 16, 2020

Whistleblower

Attachments

- A. Actual and Imminent Destruction of Mail Room & Other Record
- B. Case 16-421-KBJ, Dkt. No. 1, Complaint Ex. 18
- C. Meki Gulley Admitted Destruction, Shredding of Mail Records During Litigation
- D. Ex. B-4_ USPS_ (b) (6) Signed Contemporaneous Notes

UD-2021-0018 and UD-2021-0019

Evangela Wimbush-Jeffrey <evangela.wimbush-jeffrey@nara.gov>

Thu, Jun 10, 2021 at 7:18 AM

To: Jametta Davis <jametta.davis@nara.gov>

Good morning,

We received 2 FOIA requests from Mr. Hammond. The turn-around time is very short. With that, can you **please spend today** adding any and all correspondence related to the two cases in the subject line to the case files. Please let me know when you have completed this. Thanks!

Evangela C Wimbush Jeffrey | Record Management Oversight & Reporting
National Archives and Records Administration | Office of the Chief Records Officer
(301) 837-0730 (Office) | (b) (6) (Cell) | evangela.wimbush-jeffrey@nara.gov

January 16, 2020

NARA Complaint ICO Walter Reed Destruction of Records. FOIA RE Certified Packages

I. ALLEGATION.

I am alleging that, despite numerous notices to preserve records, Walter Reed National Military Medical Center and named individuals: FOIA Officer Judy, J. Bizzell, Privacy Officer, Joseph E. Davidge, former Commander Brigadier General Clark, Mail Room Supervisor Meki Gulley, FOIA Office mail orderly (b) (6) and others, destroyed records in anticipation of and during litigation and that further records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction for my April 26, 2014 FOIA request with my Requester Number FOIA WRNMC #14-1 seeking records related to certified mail tracking numbers 7012 1640000096651035 and 70121640000096654524 and my August 16, 2014 FOIA Appeal thereof. My Request seeks records that would indicate *what actions, if any*, Defendants, (including Walter Reed's Director, Brigadier General Clark and Walter Reed's Privacy Compliance Administrator, Joseph E. Davidge) took upon being notified of a potential Privacy breach in being unable to locate the two certified packages containing the Original 2012 DVD of my medical records and other sensitive documents. *See* District of Columbia Civil Action No. 16-421-KBJ, Dkt. No. 1, Complaint Ex. 18, at 3, 4, 6, 7 4 and 19 – 44 (attached).

Additional records cited by Walter Reed's FOIA Officer in her declarations (Bizzell Decl.) related to specific dates where she acted three years prior to her declarations (as enumerated in Dkt. No. 30, Plaintiff's List of Outstanding Records, Paragraph H) have either already been destroyed or are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction as Bizzell now states that such records do not exist, including:

- Contemporaneous notes, memos or any other records related to Ms. Bizzell's discussions [communications] with Ms. Gully and (b) (6) concerning the above certified mail tracking numbers, which took place on or about May 22, 2014; May 26, 2014; June 12, 2014; June 24, 2014; July 15, 2014; August 12, 2014; August 21, 2014; February 18, 2015; April 7, 2015; May 11, 2015; and November 6, 2015. [*See* ECF 18-1, Second Bizzell Decl., ¶¶ 29-33 dated **February 28, 2017**]
- Contemporaneous notes, memos or any other records related to the search of the USPS tracking website that Ms. Bizzell alleges she performed on May 30, 2014. *See* ECF 18-1 ¶ 23. [dated **February 28, 2017**]
- Records relied upon by Ms. Gulley on May 22, 2017, in acknowledging receipt of certified package 7012 1640 0000 9665 4524. *See* ECF 25-2 ¶32. [Third Bizzell Decl.]

Additionally, records of my February 15, 2015, April 5, 2015 and May 10, 2015 notices Walter Reed's FOIA Officer and others to preserve records for judicial review, including any forwarding or action taken as a result of them have either already been destroyed or are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction,

Walter Reed and Defense Health Agency legal staff, including Agency Counsel Paul Thomas Cygnarowicz, MD Bar 12- 9212150146, allegedly have participated in, are participating in, or believed to be participating in any such unlawful action, in part by falsely claiming in court documents that Walter Reed is not required to retain records subject to FOIA, and as officers of the Court are required to have reported such unlawful destruction of records of which they have knowledge, including destruction of records during litigation. There is no attorney/client shield for participating in unlawful acts, if true, in my view.

The Agency's citations during litigation to not being required to retain records sought under FOIA and to deleting them under their records schedules indicates that they are actively deleting records that are subject to FOIA retention irrespective of the otherwise normal retention schedule. Further records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction. See Attachment A. "Actual and Imminent Destruction of Mail Room & Other Records."

This alleged and apparently admitted destruction occurred and may be ongoing despite numerous notices to preserve records. Mail Room Supervisor Meki Gulley states that hard copy mail records responsive to this FOIA request were destroyed/shredded not only after they were sought via FOIA but after litigation commenced on March 2, 2016.

II. IDENTIFICATION OF RECORDS.

I am seeking that in response to this NARA complaint, IAW 36 CFR 1230.16, Walter Reed account for (and produce if not destroyed) each of the specific records below sought in my FOIA request and appeal, which were known to exist at the time of my Request and Appeal and litigation.

Information Requested via FOIA. In my FOIA request, I am requesting **all** records from November 26, 2013 to present relating to certified mail tracking number 7012 1640 0000 9665 1035 (mailed on November 26, 2013) and certified mail tracking number 7012 1640 0000 9665 4524 (mailed on January 27, 2014). Information requested includes, but **is not limited to:**

- *Emails regarding package/mail delivery/pick-up, or anything related to the specific certified packages above between any of the following parties: Judy Bizzell, Joe. E. Davidge, Ms. Gully (Mail Services), (b) (6) (purported mail orderly for FOIA Office), Brigadier General Clark, (b) (6) any member of the command staff or any other party.*
- *Any material related to inquiry conducted in connection with these packages that may have been initiated by Brigadier General Clark or others;*
- *Letters or other correspondence including those sent to Brigadier General Clark;*
- *Records of phone logs for the telephones assigned to the above personnel and (b) (6)*

See Dkt. No. 1, Comp

Plaintiff further delineates such records in his appeal where such records may be located, stating:

Specific Information Known by WRNMMC to Exist.

1. Mail Room Records. The WRNMMC Mail Room is required to (and does) maintain records of certified mail received from USPS. The mail room notifies the parties to whom the mail is addressed and/or their designated mail orderly to pick up mail. This notification is done by email. The mail room obtains signatures from personnel who pick up certified mail and maintains logs. The mail room returns USPS form PS Form 3811 Domestic Return Receipt forms and maintains appropriate records. These are agency records subject to FOIA. Attachment C clearly demonstrates that the mail room received both packages. According to statements made by (b) (6), USPS Consumer and Industry Contact Northern Virginia District (b) (6) and Ms. Gully (WRNMMC Mail Services), both packages were picked up by (b) (6) (purportedly the mail orderly for the WRNMMC FOIA/PA Office). WRNMMC FOIA/PA Office did not conduct a search for mail room records.

2. WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office Records. Both packages were addressed to Ms. Bizzell in the FOIA Office, who states that she did not receive them (see Attachment E). For the FOIA Officer to suggest that the packages were not received in that office can only mean that my medical records are missing or have been compromised and that appropriate Privacy Act breach reporting is required. WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office did not conduct a search of the HIPAA/Privacy Act/FOIA/Civil Liberties Office for records related to the packages, including the DVD containing my PHI/PII and other contents of the packages containing my PHI/PII.

3. Records of Letters or Other Correspondence Including Those Sent to Brigadier General Clark. Please see the fax cover page images at Attachment D showing some letters that were sent to the Office of Brigadier General Clark. Please also see the USPS Form 3811, Certified Mail Receipt, for correspondence relevant to this FOIA request and the potential loss or compromise of my medical records referenced above. Upon receipt, these became agency records in WRNMMC possession that are clearly subject to FOIA. I am seeking the "Received Fax" agency records and received correspondence agency records. Moreover, WRNMMC is required to (and does) log in, file under appropriate record retention schedule and assign action to every correspondence addressed to the Commander. Such records are official agency records and required by law to be maintained. Moreover, there are records related to the assignment by the Command staff for action to be completed by WRNMMC action officers and records of completed action. This would be done by email or route sheet with a cover page. WRNMMC FOIA Office did not search for these agency records, bring them into the FOIA case file and provide them in response to my FOIA request.

4. Records of Phone Logs. Attachment C clearly shows that phone calls between the referenced numbers were made. WRNMMC FOIA Office did not conduct a search for phone records (likely provided by DISA).

5. Inquiry Initiated by Brigadier General Clark or His Staff. Please refer to Attachment D. To suggest that no inquiry or action of any kind was initiated by WRNMMC for this important HIPAA/Privacy Act issue is troubling and improbable. WRNMMC FOIA Office did not conduct a reasonable search for these records in the Office of the Commander, the legal office, PA Office, etc.

6. *Records of Emails.* *Agency email records clearly exist, including emails that I sent to Ms. Bizzell and any forwarding of those emails. Please see Attachment E. Moreover, emails may exist related to other actions taken by Ms. Bizzell or personnel in the PA Office. These are agency records that must be maintained. To suggest that I may have some records that were not provided incident to my FOIA request is nonresponsive. I am seeking copies of the agency records that were brought under agency record retention schedules. WRNMMC must locate all such emails, maintain them in their FOIA case file and provide copies to me in response to my FOIA request. Any emails that have been deleted by the respective parties should be retrieved from WRNMMC backup email servers.*

7. *Records of Contact with the Defense Health Agency HIPAA/Privacy Act/FOIA/Civil Liberties Office.*

8. *A Dated, Serialized and Signed Copy of the WRNMMC Letter at Attachment B.*

See Dkt. No. 1, Complaint Ex. 18, at 3, 4.

As to certified mail records, Defendants maintain extensive electronic records. Walter Reed: (1) maintains PS Form 3883, Firm Delivery Receipt for Accountable and Bulk Delivery Mail upon receiving packages from USPS, identifying the article number article number and delivery “mail for,” which is signed and dated by the Mail Services person receiving the packages; (2) scans each certified mail package, including the signature of the Walter Reed employee when the employee picks up the package; (3) adds an internal bar-coded label to the certified package with the name of the person to receive the mail and the office for tracking in an internal mail delivery system; (4) maintains USPS Form 3849 Delivery Notice/Reminder/Receipt, which records the signature of the person picking up the package, and; (5) maintains emails to and from the Mail Services Manager, Ms. Meki Gulley. See Dkt. No. 22-2, Hammond Decla. ¶¶ 64, 65; Dkt. No. 24-8, Ex. B-7; Dkt. No. 22-3 ¶¶ 197, 198.

The above records may have been destroyed or are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction, as Bizzell/Gulley claim that they do not exist.

III. SUPPORTING RECORDS

The attached supporting document “Destruction of Records” documents the incontrovertible existence of records at the time of my FOIA request and appeal, numerous specific notices to Walter Reed to preserve them for judicial review, Walter Reed acknowledgements of such preservation notices, Walter Reed statements that they are not required to preserve records and a statement by Mail Room Supervisor Meki Gulley that PAPER records were destroyed AFTER

the start of litigation on March 2, 2016. Citations therein are to Case 1:16-cv-00421-KBJ documents available at Pacer.gov.

16-421-KBJ, Dkt. No. 1, Complaint Ex. 18 is attached.

IV. APPLICABLE RETENTION SCHEDULE, NARA GRS 4.2 Item 20

020	Access and disclosure request files. Case files created in response to requests for information under the Freedom of Information Act (FOIA), Mandatory Declassification Review (MDR) process, Privacy Act (PA), Classification Challenge, and similar access programs, and completed by: <ul style="list-style-type: none">• granting the request in full• granting the request in part• denying the request for any reason including:<ul style="list-style-type: none">o inability to fulfill request because records do not existo inability to fulfill request because request inadequately describes recordso inability to fulfill request because search or reproduction fees are not paid	Temporary. Destroy 6 years after final agency action or 3 years after final adjudication by the courts, whichever is later, but longer retention is authorized if required for business use.	DAA-GRS-2016-0002-0001
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V. 36 CFR § 1230.3

Unlawful or accidental destruction (also called unauthorized destruction) means disposal of an unscheduled or permanent record; disposal prior to the end of the [NARA](#)-approved retention period of a temporary record (other than court-ordered disposal under [§ 1226.14\(d\)](#) of this subchapter); and disposal of a record subject to a **FOIA request**, litigation hold, or any other hold requirement to retain the records.

VI. 44 U.S. CODE § 3106 - UNLAWFUL REMOVAL, DESTRUCTION OF RECORDS

(a)FEDERAL AGENCY NOTIFICATION.—

The head of each Federal agency shall notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, corruption, deletion, erasure, or other destruction of records in the custody of the agency, and with the assistance of the Archivist shall initiate action through the Attorney General for the recovery of records the head of the Federal agency knows or has reason to believe have been unlawfully removed from that agency, or from another Federal agency whose records have been transferred to the legal custody of that Federal agency.

(b)ARCHIVIST NOTIFICATION.—

In any case in which the head of a Federal agency does not initiate an action for such recovery or other redress within a reasonable period of time after being notified of any such unlawful action described in subsection (a), or is participating in, or believed to be participating in any such unlawful action, the Archivist shall request the Attorney General to initiate such an action, and shall notify the Congress when such a request has been made.

([Pub. L. 90–620](#), Oct. 22, 1968, [82 Stat. 1298](#); [Pub. L. 98–497, title I, § 107\(b\)\(21\)](#), title II, § 203(b), Oct. 19, 1984, [98 Stat. 2290](#), 2294; [Pub. L. 113–187, § 4](#), Nov. 26, 2014, [128 Stat. 2009](#).)

I would like to speak with the case manager handling this complaint, which may be LAURENCE BREWER Chief Records Officer for the U.S. Government or a subordinate. Please email me with contact information and an available time.

This is submitted upon information, belief and records available to me.

With my respect,

/s/

Robert Hammond
Whistleblower

January 16, 2020

Attachments:

- A. Actual and Imminent Destruction of Mail Room & Other Records
- B. Case 16-421-KBJ, Dkt. No. 1, Complaint Ex. 18
- C. Meki Gulley Admitted Destruction, Shredding of Mail Records During Litigation
- D. Ex. B-4_ USPS_ (b) (6) Signed Contemporaneous Notes

Robert Hammond

(b) (6)

August 16, 2014

Office of General Counsel
National Capital Region Medical Directorate
Defense Health Agency
8901 Wisconsin Avenue (Building 27)
Bethesda, MD 20889
Phone: (703) 681-6012
E-mail: OGCFOIAAppeals@tma.osd.mil

Subject: Appeal of my FOIA Request - certified mail tracking numbers 7012
1640 0000 9665 1035 and 7012 1640 0000 9665 4524

Requester Control Number: FOIA WRNMC #14-I

References: (a) The Freedom of Information Act
(b) The Privacy Act
(c) CFR 164.526
(d) DoD 5700.7-R, September 1998, DoD Freedom of Information Act (FOIA)
Program
(e) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation
(e) Joint publication of U.S. Department of Justice, Executive Office of the
President and U.S. General Services Administration of July 2011: "Your Right to
Federal Records" (see <http://publications.usa.gov/USAPubs.php?PubID=6080>)
(g) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program

Dear Sir:

This appeal is submitted under the references above for my FOIA request at Attachment A. My FOIA request was submitted by email to Ms. Judy Bizzell (judy.j.bizzell.civ@health.mil) of the Walter Reed National Military Medical Center (WRNMMC) FOIA Office on April 28, 2014 (their fax machine was not working). The WRNMMC undated, unserialized, unsigned FOIA response is at Attachment B. This reply was received by email from Ms. Bizzell at 7/25/2014 5:11:48 P.M. Eastern Daylight Time. I have requested a dated, serialized and signed copy of Ms. Bizzell's letter, which I have not received. This appeal is only applicable to my FOA request at Attachment A; WRNMMC referenced multiple FOIA requests in their reply which may be the subject of separate subsequent appeals.

Background. This request relates to *potential* and loss or compromise of both Personal Health

Information (PHI) and Personally Identifiable Information (PII) (including Health Insurance Portability and Accountability Act (HIPAA)/Privacy Act (P/A) information) disruption of United States Postal Service (USPS) mail, inaccurate statements by the WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office to an appellate authority and unauthorized removal of an official WRNMMC agency record. The certified packages contained correspondence to the FOIA Officer that included my PHI and PII and a DVD containing my PHI medical records, along with PII such as my social security number. The DVD is clearly labeled and known by WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office to contain my PHI/PII.

Information Requested via FOIA. In my FOIA request, I am requesting all records from November 26, 2013 to present relating to certified mail tracking number 7012 1640 0000 9665 1035 (mailed on November 26, 2013) and certified mail tracking number 7012 1640 0000 9665 4524 (mailed on January 27, 2014). Information requested includes, but **is not limited to**:

- Emails regarding package/mail delivery/pick-up, or anything related to the specific certified packages above between any of the following parties: Judy Bizell, Joe. E. Davidge, Ms. Gully (Mail Services), (b) (6) purported mail orderly for FOIA Office), Brigadier General Clark, (b) (6) any member of the command staff or any other party.
- Any material related to inquiry conducted in connection with these packages that may have been initiated by Brigadier General Clark or others;
- Letters or other correspondence including those sent to Brigadier General Clark;
- Records of phone logs for the telephones assigned to the above personnel and (b) (6) (b) (6)

Basis for Appeal.

I am appealing that the WRNMMC basis for denying release or withholding of agency records is not a permissible/enumerated reason under the FOIA and reference (d). The WRNMMC reply *"We find that (other than the emails you currently have), there is No Record for your request for further correspondences, emails, etc., regarding tracking numbers 7012 1640 0000 9665 1035 or 7012 1640 0000 9665 4524. This matter is closed in this office."* is not a permissible response/exemption/exclusion for denying release or withholding of agency records under the FOIA or reference (d). "No Record" means that there is no agency record of any kind, which is clearly not the case. There is no such exclusion/permissible reason for denial based on records that WRNMMC presumes that I have that were not provided in response to my FOIA request. I am requesting agency records from agency files; my FOIA request is compliant in every respect.

Further, I am appealing that WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office Office did not:

- (1) provide a tracking number within ten days of receipt of my original request as required by the FOIA;
- (2) provide a reply within the statutory and regulatory twenty-day time period;
- (3) conduct a reasonable search for obvious records that WRNMMC knows exist;
- (4) provide responsive agency records in WRNMMC possession at the time of my request.

Appellate Authority Action Requested. I am asking that:

- (1) each element of my basis for appeal be addressed separately;
- (2) each element of "Specific Information Known by WRNMMC to Exist" described below be addressed separately;
- (3) exactly what search was done for each of the items enumerated in this appeal be addressed, including what search was done for the certified packages and their contents that includes the DVD containing my medical records and other PHI/PII;
- (4) each element of my appeal be sustained;
- (5) my FOIA request be remanded back to WRNMMC for direct reply to me; and,
- (6) I be granted new appellate rights following a subsequent reply by WRNMMC.

Specific Information Known by WRNMMC to Exist.

1. **Mail Room Records.** The WRNMMC Mail Room is required to (and does) maintain records of certified mail received from USPS. The mail room notifies the parties to whom the mail is addressed and/or their designated mail orderly to pick up mail. This notification is done by email. The mail room obtains signatures from personnel who pick up certified mail and maintains logs. The mail room returns USPS form PS Form 3811 Domestic Return Receipt forms and maintains appropriate records. These are agency records subject to FOIA. Attachment C clearly demonstrates that the mail room received both packages. According to statements made by (b) (6), USPS Consumer and Industry Contact Northern Virginia District (b) (6) and Ms. Gully (WRNMMC Mail Services), both packages were picked up by (b) (6) purportedly the mail orderly for the WRNMMC FOIA/PA Office). WRNMMC FOIA/PA Office did not conduct a search for mail room records.
2. **WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office Records.** Both packages were addressed to Ms. Bizzell in the FOIA Office, who states that she did not receive them (see Attachment E). For the FOIA Officer to suggest that the packages were not received in that office can only mean that my medical records are missing or have been compromised and that appropriate Privacy Act breach reporting is required. WRNMMC HIPAA/Privacy Act/FOIA/Civil Liberties Office did not conduct a search of the HIPAA/Privacy Act/FOIA/Civil Liberties Office for records related to the packages, including the DVD containing my PHI/PII and other contents of the packages containing my PHI/PII.
3. **Records of Letters or Other Correspondence Including Those Sent to Brigadier General Clark.** Please see the fax cover page images at Attachment D showing some letters that were sent to the Office of Brigadier General Clark. Please also see the USPS Form 3811, Certified Mail Receipt, for correspondence relevant to this FOIA request and the potential loss or compromise of my medical records referenced above. Upon receipt, these became agency records in WRNMMC possession that are clearly subject to FOIA. I am seeking the "Received Fax" agency records and received correspondence agency records. Moreover, WRNMMC is required to (and does) log in, file under appropriate record retention schedule and assign action to every correspondence addressed to the Commander. Such records are official agency records and required by law to be maintained. Moreover, there are records related to the assignment by the Command staff for action to be completed by WRNMMC

action officers and records of completed action. This would be done by email or route sheet with a cover page. WRNMMC FOIA Office did not search for these agency records, bring them into the FOIA case file and provide them in response to my FOIA request.

4. **Records of Phone Logs.** Attachment C clearly shows that phone calls between the referenced numbers were made. WRNMMC FOIA Office did not conduct a search for phone records (likely provided by DISA).
5. **Inquiry Initiated by Brigadier General Clark or His Staff.** Please refer to Attachment D. To suggest that no inquiry or action of any kind was initiated by WRNMMC for this important HIPAA/Privacy Act issue is troubling and improbable. WRNMMC FOIA Office did not conduct a reasonable search for these records in the Office of the Commander, the legal office, PA Office, etc.
6. **Records of Emails.** Agency email records clearly exist, including emails that I sent to Ms. Bizzell and any forwarding of those emails. Please see Attachment E. Moreover, emails may exist related to other actions taken by Ms. Bizzell or personnel in the PA Office. These are agency records that must be maintained. To suggest that I may have some records that were not provided incident to my FOIA request is nonresponsive. I am seeking copies of the agency records that were brought under agency record retention schedules. WRNMMC must locate all such emails, maintain them in their FOIA case file and provide copies to me in response to my FOIA request. Any emails that have been deleted by the respective parties should be retrieved from WRNMMC backup email servers.
7. **Records of Contact with the Defense Health Agency HIPAA/Privacy Act/FOIA/Civil Liberties Office.**
8. **A Dated, Serialized and Signed Copy of the WRNMMC Letter at Attachment B.**

Some Applicable References.

- Reference (e) states that for requests “that will require more than ten days for the agency to process, the FOIA requires agencies to assign a tracking number to your request. Each agency must provide a telephone number or website by which a requester can use the assigned tracking number to obtain information about the status of a pending request.” DoD 5400.11-R, May 14, 2007, paragraph C3.1.1O. states: “Time Limits. “DoD Components normally shall provide access within 20 working days after receipt of the request. If access cannot be given within the 20 working day period, the requester shall be notified in an interim response.” WRNMMC did not follow the FOIA requirement to provide me a tracking number within ten days and did not then comply with statutory and regulatory requirements to complete the request within twenty days.
- Reference (g) states, “DoD personnel are expected to comply with the FOIA, this Regulation, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust.” The WRNMMC FOIA/Privacy Office has not met that standard.

WRNMMC has not provided the responsive agency records. Again, as an integral part of this appeal, I am requesting that WRNMMC specifically enumerate what searches were done with regard to the specific items enumerated above, including the search for the DVD containing my medical records and other PHI/PII.

This appeal is separate and distinct from any other appeals that I may file and may not be combined with any other appeal. If you deny all or any part of this appeal, please cite each specific exemption you think justifies your determination and notify me of further remedies available under the law.

A copy of this request is being forwarded to the WRNMMC Privacy Officer for appropriate Privacy Act breach reporting, to the WRNMMC FOIA Officer for retention in the FOIA case file and to the WRNMMC Commanding Officer as notice of agency records subject to this FOIA request and appeal. This appeal will also be forwarded to interested parties for information.

I greatly appreciate your thoughtful consideration of my request. Please contact me if you have any questions regarding this request. Thank you in advance.

With my respect,



Robert Hammond

Attachments: A - My FOIA Request Requestor Number #14-I dated April 26, 2014; subject: FOIA Tracking Numbers
B - WRNMMC undated, unsigned FOIA response 5700; 00QM00
C - USPS Tracking Replies for Certified Mail 70121640000096654524 and 70121640000096651035
D - Examples of Correspondence Faxed/Mailed to BG Clark
E - Examples Email Correspondence That Are Agency Records Subject to My FOIA Request

Copy to: Brigadier General Clark, WRNMMC Commander
Mr. Joe E. Davidge, WRNMMC Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office
Ms. Judy Bizzell, WRNMMC FOIA Officer

Attachment B to NARA Complaint

**Attachment A: My FOIA Request Requestor Number #14-I
dated April 26, 2014; subject: FOIA Tracking Numbers**

Robert Hammond

(b) (6)

April 26, 2014

Ms. Judy Bizzell
Freedom of Information Act (FOIA) Officer
Walter Reed National Military Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: FOIA Request - certified mail tracking numbers 7012 1640 0000 9665
1035 and 7012 1640 0000 9665 4524

Requester Control Number: FOIA WRNMC #14-I

References: (a) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, "Your Right to Federal Records"
(b) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
(c) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
(d) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation

Dear Ms. Bizzell,

I am submitting this request under the Freedom of Information Act, U.S.C. subsection 522. If you deny all or any part of this request, please cite each specific exemption you think justifies your refusal to release the information and notify me of appeal procedures available under the law.

I am requesting all records from November 26, 2013 to present relating to certified mail tracking number 7012 1640 0000 9665 1035 (mailed on November 26, 2013) and certified mail tracking number 7012 1640 0000 9665 4524 (mailed on January 27, 2014). Information requested includes, but is not limited to:

- Emails regarding package/mail delivery/pick-up, or anything related to the specific certified packages above between any of the following parties: Judy Bizzell, Joe. E. Davidge, Ms. Gully (Mail Services), **(b) (6)** (mail orderly for FOIA Office), Brigadier General Clark, **(b) (6)**, **(b) (6)**, any member of the command staff or any other party.
- Any material related to inquiry conducted in connection with these packages that may

**Attachment A: My FOIA Request Requestor Number #14-I
dated April 26, 2014; subject: FOIA Tracking Numbers**

have been initiated by Brigadier General Clark or others;

- Letters or other correspondence including those sent to Brigadier General Clark;
- Records of phone logs for the telephones assigned to the above personnel and 301-670-6049, 301-295-4611, 301-295-4000, 301-295-0162.

I agree to pay fees for searching or copying the records up to \$400. If the fees exceed this amount please advise me of the cost. I am a private citizen seeking this information. I do not believe that there should be any charge for providing these records.

Please cite the requester control number and include a copy of this request in your reply. This request is an agency record in its own right and providing a copy of this request is an integral part of my FOIA request, which helps to ensure that you fully address my request. Do not reply to more than one requestor control number in a single letter.

Reference (a) states that for requests ‘that will require more than ten days for the agency to process to FOIA requires agencies to assign a tracking number to your request. Each agency must provide a telephone number or website by which a requester can use the assigned tracking number to obtain information about the status of a pending request.’ DoD 5400.11-R, May 14, 2007, paragraph C3.1.1O. states: “Time Limits. “DoD Components normally shall provide access within 20 working days after receipt of the request. If access cannot be given within the 20 working day period, the requester shall be notified in an interim response.” Please provide me a tracking number for this request.

Reference (c) states, “DoD personnel are expected to comply with the FOIA, this Regulation, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust.”

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request. If you deem that any portion of my request is unclear, answer the remaining portions and I will perfect a request for additional material as needed.

With my respect,

Robert Hammond



DEFENSE HEALTH AGENCY
WALTER REED NATIONAL MILITARY MEDICAL CENTER
OFFICE OF THE DIRECTOR
2901 WISCONSIN AVENUE
BETHESDA, MD 20889-5600

IN REPLY REFER TO
5700
00QM00

Robert Hammond

(b) (6)

Dear Mr. Hammond:

SUBJECT: FREEDOM OF INFORMATION ACT REQUEST – #14-48 (FOIA Tracking Numbers)

This responds in part to your Freedom of Information Act requests received in this office on June 3, 2014. The requests is assigned case number 14-48. Please refer to our FOIA Office case numbers when making inquiries.

In your request you seek "...tracking numbers and dates that the requests were received for the FOIA requests at the attachment." NOTE: Your B through U

In reviewing your attachment, we find that the following have been asked and and interim response given for Personnel records of: Mr. Cornell Floyd, Ms. Judy Bizzell, Ms. Barbara Moidel, Ms. Judy Logeman, Mr. Joe Davidge, Mr. Brice Goodwin, and Mr. Thurman McCall. You will be given a final response upon receipt of documents. WRNMMC #14-31 to 36 & 40 to 41.

We find that (other than the emails you currently have), there is No Record for your request for further correspondences, emails, etc., regarding tracking numbers 7012 1640 0000 9665 1035 or 7012 1640 0000 9665 4524. This matter is closed in this office. WRNMMC #14-38

Also we find that your request for FOIA tracking numbers (WRNMMC #14-43) has been asked and answered. A copy of our response is enclosed. This matter is closed in this office.

We further find that there is No Record for your request for a "Disk Chain of Custody." You were provided a copy of the mailing receipt previously. WRNMMC #14-39. This matter is closed in this office

Per your request, a copy of the front side of disk held in this office is provided with this correspondence; WRNMMC #14-46. This matter is now closed in this office.

Retention schedule of DD Form 2870 will be provided upon receipt (WRNMMC #14-44).

SUBJECT: Freedom of Information Act Request - 14-43

Such an appeal should be addressed to:

Defense Health Agency Office of General Counsel
National Capitol Region Medical Directorate
Attn: Mr. Paul Cygnarowicz
8901 Wisconsin Avenue (Bldg 27)
Bethesda, MD 20889

The appeal must be postmarked within 60 calendar days from the date of this letter, and you should attach this letter with a statement regarding the basis of your appeal. I recommend you annotate both the letter of appeal and envelope with the words "Freedom of Information Act Appeal."

If you have questions of this office, please call or e-mail me at (301) 400-2315 or Judy.J.Bizzell.civ@health.mil.

Sincerely,

J. J. BIZZELL
By Direction

Attachment C: Certified Mail 70121640000096654524 and 70121640000096651035

From: (b) (6)

(b) (6)

Sent: 2/21/2014 4:08:36 P.M. Eastern Standard Time

Subj: Certified Not Delivered 7012 1640 0000 9665 1035

Good afternoon Mr. Hammond,

On Dec. 26 you came into the office to have me track this certified letter. As of Nov. 27, 2013 the only information in the tracking system was that it left Merrifield. The package never reached its intended destination. I called various numbers in an effort to locate the package. The 1st number was to the Post office in Bethesda MD. 301-670-6049. I called a few other numbers that were associated with Walter Reed Medical Center. The numbers were 301-295-4611, 301-295-4000, 301-295-0162. Unfortunately none of these numbers led to me finding your package.

Please accept my sincere apology for the inconvenience you have experienced as a result of the post office not meeting its standard.

Thank you,

JOHNEISE R. THOMAS
Consumer Affairs and Claims
8409 Lee Highway
Merrifield, VA. 22081

(b) (6)

Attachment B to NARA Complaint

Attachment C: Certified Mail 70121640000096654524 and 70121640000096651035

From: (b) (6)

Sent: 2/21/2014 4:11:47 P.M. Eastern Standard Time

Subj: Certified Mail 70121640000096654524 and 70121640000096651035

Mr. Hammond,

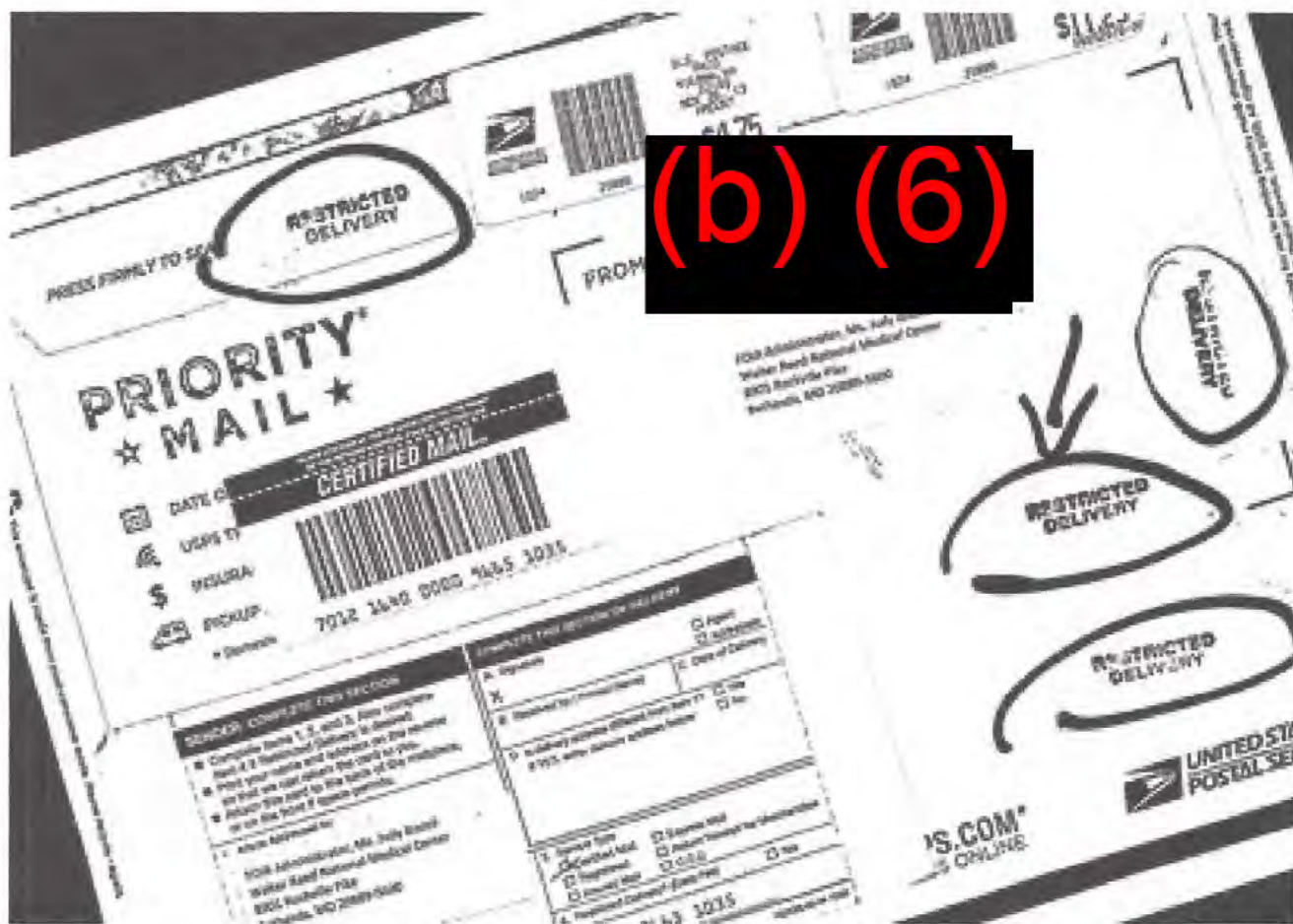
On February 21, 2014 I spoke with Ms. Gulley who is the Manager of the Bethesda Hospital Mail Services about your two certified mailings. She investigated and determined that the Certify with label # 70121640000096654524 was picked up on February 12, 2012 by (b) (6). The Certify with label # 70121640000096651035 was picked up on December 17, 2013 by (b) (6).

(b) (6) is the mail orderly for the FOIA Officer Judy Bizzell.

Ms. Gulley's contact telephone number is (b) (6).

Mail for Bethesda is sorted and dispatched from the Anacostia Plant Facility.

Below is an image of your package.



Attachment C: Certified Mail 70121640000096654524 and 70121640000096651035

(b) (6)

Consumer and Industry Contact

Northern Virginia District

8409 Lee Highway, Room 102

Merrifield, VA 22081

(b) (6)

Fax (703) 204-3075

(b) (6)

Have a WONDERFUL Day!

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

7012 3460 0001 5107 8388

U.S. Postal Service TM	
CERTIFIED MAIL TM RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$ 4.00
Certified Fee	\$ 3.00
Return Receipt Fee (Endorsement Required)	\$ 2.70
Restricted Delivery Fee (Endorsement Required)	\$ 0.00
Total Postage & Fees	\$ 9.70

VIENNA, VA
APR 24
Postmark
MAY 2014
USPS 22180-9998

Sent To	
Street, Apt. No., or PO Box No.	BG Jeffrey B. Clark Walter Reed National Medical Center 8901 Rockville Pike Bethesda, MD 20889-5600
City, State, ZIP+4	

PS Form 3800, August 2006 See Reverse for Instructions

Appeal to FOIA WRNMC #14-1

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Robert Hammond

(b) (6)

April 17, 2014

Brigadier General Jeffrey B. Clark
Director,
Walter Reed National Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: Request for Inquiry Regarding Two Certified Packages Containing Personally Identifiable Information (PII)/Protected Health Information (PHI)

Reference: (a) My letter dated February 25, 2014, subject Request for Inquiry Regarding Two Certified Packages Containing Personally Identifiable Information (PII)/Protected Health Information (PHI); follow up

Dear Brigadier General Clark,

I am following up on my letter at reference (a), which I have included for your convenience. Please acknowledge receipt of my letter and provide the status of your inquiry.

I asked that you initiate an inquiry into the handling of two certified mailings containing my Protected Health Information (PHI) and Personally Identifiable Information (PII): certified mail tracking number 7012 1640 0000 9665 1035 (mailed on November 26, 2013) and certified mail tracking number 7012 1640 0000 9665 4524 (mailed on January 27, 2014).

To be clear, the restricted delivery package with tracking number 012 1640 0000 9665 1035 containing a DVD with hundreds of pages of my medical records has as not been accounted for. **A privacy breach has clearly occurred along with potential criminal violations of law and false statements in connection with Privacy/FOIA requests.** The following apply:

- If the DVD was not properly received and placed into an accountable system of records, a breach of my PII/PHI has occurred.
- If the DVD was opened by someone other than Ms. Bizzell, the restricted delivery addressee, both a privacy breach and a criminal violation of 18 USC § 1702 (Obstruction of correspondence) has occurred.
- If the DVD in that package was the original DVD that I provided to Ms. Judy Logeman the WRNMMC Healthcare Resolutions Office, then that agency record was improperly removed from the accountable system of records in violation of records management laws, regulations and policies and false statements were made to the office of Navy Judge Advocate General in addressing my second appeal of my FOIA request my FOIA/Privacy Act request "Requester Number WRNMC #13-19 dated January 18, 2014.
- The DVD was clearly in WRNMMC possession at the time of my first appeal of my FOIA/Privacy Act request "Requester Number WRNMC #13-19 dated July 20, 2013,

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

such that false information was given to the office of Navy Judge Advocate General regarding that appeal.

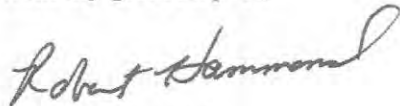
- It is apparent that improper procedures exist in the handling of certified mail and timely receipt by the FOIA/Privacy Office, such that WRNMMC is likely reporting inaccurate information to the United States Congress regarding processing times. Numerous other examples of this exist.

Please provide a reply addressing the following:

- Has a formal inquiry been initiated?
- Has the DVD been located?
- Was the DVD opened by a recipient other than Ms. Bizzell, and if so who?
- Was the DVD the original DVD that I gave to Ms. Logeman?
- What Privacy Act breach reporting and other actions have been taken?

I would also call to your attention to the fact that four privacy breaches involving the Privacy/FOIA Office have occurred in the past few months.

With my great respect,



Robert Hammond

Appeal to FOIA WRNMMC #14-1

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Attachment D

Robert Hammond

(b) (6)

March 24, 2014

Brigadier General Jeffrey B. Clark
Director,
Walter Reed National Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: Request for Inquiry Regarding Two Certified Packages Containing Personally
Identifiable Information (PII)/Protected Health Information (PHI)

Reference: (a) My letter dated February 25, 2014, subject Request for Inquiry Regarding Two
Certified Packages Containing Personally Identifiable Information (PII)/Protected
Health Information (PHI); follow up

Dear Brigadier General Clark,

I am following up on my letter at reference (a), which I have included for your convenience.
Please acknowledge receipt of my letter and provide status of my request in the letter.

I will greatly appreciate a reply by March 30, 2014. Thank you.

With my great respect,

Robert Hammond

Robert Hammond

Appeal to FOIA WRNMMC #14-1

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Robert Hammond
(b) (6)

February 25, 2014

Brigadier General Jeffrey B. Clark
Director,
Walter Reed National Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: Request for Inquiry Regarding Two Certified Packages Containing Personally Identifiable Information (PII)/Protected Health Information (PHI)

Dear Brigadier General Clark,

I am writing to ask you to initiate an inquiry through your staff regarding a certified package with restricted delivery sent to Ms. Judy Bizzell, Freedom of Information (FOIA) Officer with certified mail tracking number 7012 1640 0000 9665 1035 (mailed on November 26, 2013) and a second certified package sent to Ms. Bizzell with certified mail tracking number 7012 1640 0000 9665 4524 (mailed on January 27, 2014). Both packages contained my Protected Health Information (PHI) and Personally Identifiable Information (PII) and there appears to be confusion regarding their delivery to Ms. Bizzell.

The package 7012 1640 0000 9665 1035 contained a DVD with some of my medical records related to my FOIA/Privacy Act request "Requester Number WRNMC #13-19" along with FOIA correspondence. The package 7012 1640 0000 9665 4524 contained FOIA correspondence.

By way of background, my FOIA request "Requester Number WRNMC #13-19" of June 29, 2013 requested a copy of a DVD containing some of my medical records that I had previously provided to the WRNMMC Healthcare Resolutions Office in order to facilitate a search for missing records. In response to that request, Ms. Bizzell forwarded what appears to be the original DVD to me in lieu of the copy that I requested (a copy of the DVD label for the DVD that was mailed to me by Ms. Bizzell is at Attachment A). Since the original would be a WRNMMC agency record, I returned it (along with correspondence) in a certified mailing with delivery restricted to Ms. Bizzell. I did not receive the return receipt confirmation card, so I initiated follow up requests through the United States Postal Service (USPS) Consumer Affairs and Claims Liaison, Merrifield, Virginia. USPS initially reported that WRNMMC stated that the package had not been received. However, subsequent follow ups with the USPS Consumer and Industry Contact Northern Virginia District (following the second incident of a certified mailing to Ms. Bizzell with no returned receipt) indicated that both packages had been received and processed for delivery to Ms. Bizzell. Please see Attachments B and C respectively.

USPS reports that there is still confusion regarding whether Ms. Bizzell received either of the certified packages, and I have not received the package delivery scans or the signed and dated

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

return receipts from Ms. Bizzell indicating that she received the packages in an unopened condition. Please also see the email thread at Attachment D, wherein Ms. Bizzell indicates that she has not received these certified packages from me.

I am hopeful that this situation is the result of procedural/administrative error and that the packages will soon be located. However, I am concerned that one of the following may exist:

- one or both certified packages are missing and a breach of my PII/PHI may have occurred;
- the restricted delivery package was opened by someone other than Ms. Bizzell, which may be a serious matter worthy of your attention;
- Ms. Bizzell did receive one or both of the certified packages and her email at Attachment D is in error.

Please also consider in your inquiry whether there might have been an oversight by the FOIA Office mailing the original Healthcare Resolutions Office DVD to me in lieu of a copy and whether the DVD that I received and then returned is in fact the original Healthcare Resolutions Office DVD and not a copy. If this is the case, I believe that a simple notification to Department of Navy Judge Advocate General in connection with my appeal of the WRNMMC response to my FOIA request #13-19 would close that matter.

For information, there was an earlier, unrelated PII/PHI breach wherein the WRNMMC FOIA Office released medical records to me that are not mine. I returned those records by certified mail and was assured that WRNMMC staff took all appropriate action.

I will greatly appreciate your assistance in this matter. Thank you.

With my great respect,



Robert Hammond

Attachments: A - Image of DVD Sent by WRNMMC FOIA Officer

B - Email From (b) (6)

Sent: 2/21/2014 4:11:47 P.M. Eastern Standard Time, Subj: Certified Mail
70121640000096654524 and 70121640000096651035

C - Email From (b) (6)

Sent: 2/21/2014 4:08:36 P.M. Eastern Standard Time, Subj: Certified Not
Delivered 7012 1640 0000 9665 1035

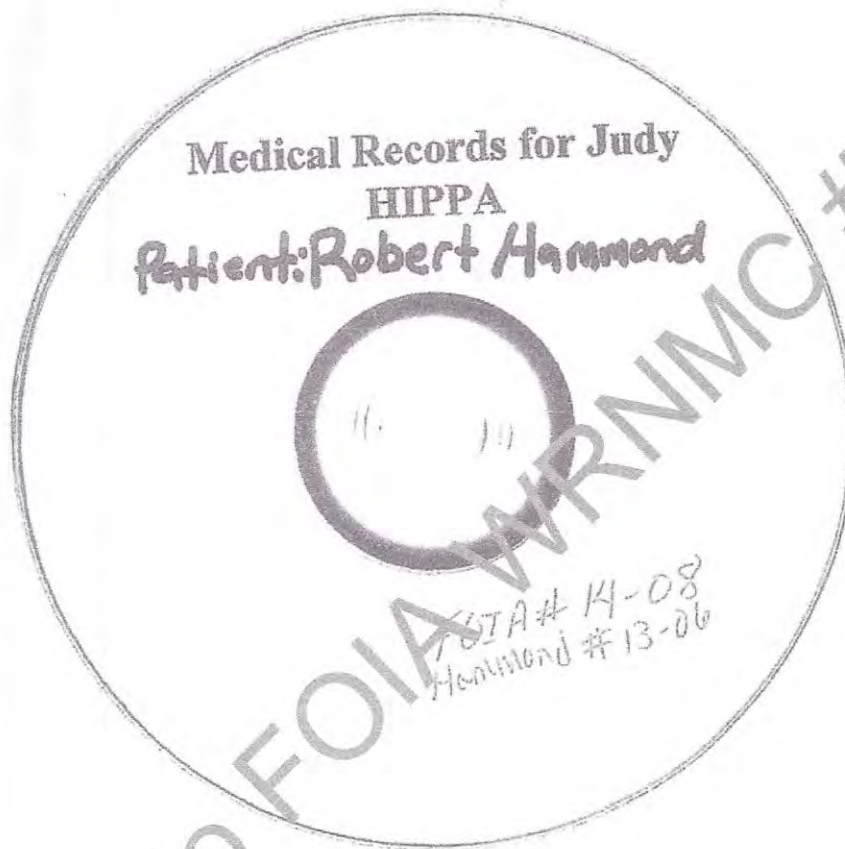
D - Email From: Judy.J.Bizzell.civ@health.mil, To (b) (6)

Sent: 2/18/2014 6:13:08 P.M. Eastern Standard Time, Subj: RE: WRNMMC
letter of November 19, 2013;subj FOIA #14-08; follow up of Feb 17, 2014

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Attachment A

Image of DVD sent by WRNMMC FOIA Officer



Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Attachment B

From: (b) (6)

Sent: 2/21/2014 4:08:36 P.M. Eastern Standard Time
Subj: Certified Not Delivered 7012 1640 0000 9665 1035

Good afternoon Mr. Hammond,

On Dec. 26 you came into the office to have me track this certified letter. As of Nov. 27, 2013 the only information in the tracking system was that it left Merrifield. The package never reached its intended destination. I called various numbers in an effort to locate the package. The 1st number was to the Post office in Bethesda MD. 301-670-6049. I called a few other numbers that were associated with Walter Reed Medical Center. The numbers were 301-295-4617, 301-295-4000, 301-295-0162. Unfortunately none of these numbers led to me finding your package.

Please accept my sincere apology for the inconvenience you have experienced as a result of the post office not meeting its standard.

Thank you,

JOHNEISE R. THOMAS
Consumer Affairs and Claims
8409 Lee Highway
Merrifield, VA. 22081
[REDACTED]

Appeal to FOIA WRNMG

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Attachment C

(b) (6)

Sent: 2/21/2014 4:11:47 P.M. Eastern Standard Time
 Subj: Certified Mail 70121640000096654524 and 70121640000096651035

Mr. Hammond,

On February 21, 2014 I spoke with Ms. Gulley who is the Manager of the Bethesda Hospital Mail Services about your two certified mailings. She investigated and determined that the Certify with label # 70121640000096654524 was picked up on February 12, 2012 by (b) (6). The Certify with label # 70121640000096651035 was picked up on December 17, 2013 by (b) (6).

(b) (6) is the mail orderly for the FOIA Officer Judy Bizzell.

Ms. Gulley's contact telephone number is (b) (6).

Mail for Bethesda is sorted and dispatched from the Anacostia Plant Facility.

Below is an image of your package.



Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Attachment C

(b) (6)

Consumer and Industry Contact

Northern Virginia District

8409 Lee Highway, Room 102

Merrifield, VA 22081

Telephone (b) (6)

Fax (703) 204-3075

(b) (6)

Have a WONDERFUL Day!

Appeal to FOIA WRNMC #14-1

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Attachment D

From: Judy.J.Bizzell.civ@health.mil
To: (b) (6)
CC: (b) (6); Judy.J.Bizzell.civ@health.mil
Sent: 2/18/2014 6:13:08 P.M. Eastern Standard Time
Subj: RE: WRNMMC letter of November 19, 2013;subj FOIA #14-08; follow up of Feb 17, 2014

Good day (b) (6) – Bottom Line Up Front (BLUF) – I am confused as to what you are asking of me at this point.

As I responded in my below email (11/14/2013) I have now mailed you the requested information twice (once in paper form and again via DVD - per your request). The DVD mailed to you was a "Copy" as you requested, so why would you "return it"? You say you sent it certified mail but did not get a return receipt. If you in fact did return it; where did you send it? Have you tracked it?

Further, I have no other letters from you (b) (6) and case #13-19 is closed in this office.

Best Regards,

Judy J. Bizzell
By Direction

Freedom of Information Act Officer
Walter Reed National Military Medical Center
8900 Wisconsin Avenue
Bethesda, MD 20889

(b) (6)

From: (b) (6)
Sent: Monday, February 17, 2014 1:52 PM
To: Bizzell, Judy J CIV US WRNMMC
Cc: Davidge, Joe E CIV US WRNMMC
Subject: WRNMMC letter of November 19, 2013;subj FOIA #14-08; follow up of Feb 17, 2014

Robert Hammond

(b) (6)

February 17, 2014

Ms. Judy Bizzell
Freedom of Information Act (FOIA) Officer
Walter Reed National Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: WRNMMC letter of November 19, 2013; subject Freedom of Information Act Request - #14-08
(Ref: DVD); follow up of February 17, 2014

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Attachment D

- Reference: (a) My Requester Control Number FOIA WRNMC #13-19 of June 29, 2013; subject: Privacy Act Request/FOIA Request – Medical Records; Copy of DVD Containing PDF files of Records Received as of May 14, 2012
- (b) My Requester Control Number FOIA WRNMC #13-06 of June 29, 2013; subject: Privacy Act Request FOIA Request - Records from June 20, 2012 to July 5, 2012; Hatch
- (c) My letter, subject: WRNMMC letter of November 19, 2013; subject Freedom of Information Act Request - #14-08 (Ref: DVD) dated of January 17, 2014
- (d) My letter subject: WRNMMC letter of November 19, 2013; subject Freedom of Information Act Request - #14-08 (Ref: DVD); follow up of January 25, 2014
- (e) Judy.J.Bizzell.civ@health.mil email, Sent: 11/14/2013 10:43:34 A.M. Eastern Standard Time, Subj: RE: URGENT Potential Breach of Protected Privacy Act Information Breach of Protected Privacy Act Information

Dear Ms. Bizzell,

I am following again on up on my letter of January 17, 2014 (reference (c)) and my letter of January 25, 2014 (reference (d)) in which I indicated that I returned the original DVD that you sent to me. I asked that you, "Please advise me if you have received it and also if you retained a copy of the DVD in your file before mailing the original." I also asked that you, "Please provide me your correct tracking control numbers for both of my requests at references (a) and (b)."

I would appreciate the courtesy of a reply to my questions above. I have not received the return receipts to my certified letters. In particular, I need to know if you received the DVD containing my sensitive medical information that I mailed back to you.

Reference (e), which is at Attachment A, also applies.

Please retain this letter along with my letters of January 17, 2014 and January 25, 2014 (references (c) and (d)) in your case file for my request WRNMC #13-19, together with my original request and all other relevant documentation.

My request WRNMC #13-19 remains open.

Your cooperation in this matter will be greatly appreciated. Thank you.

With my respect,

Robert Hammond

Copy to: J. E. Davidge, Privacy Compliance Administrator
Walter Reed National Military Medical Center
Building 1, 2nd Floor, Room 2430
8901 Rockville Pike
Bethesda, MD 20889-5600

Attachment A

Judy.J.Bizzell.civ@health.mil email, Sent: 11/14/2013 10:43:34 A.M.
Eastern Standard Time, Subj: RE: URGENT Potential Breach of Protected
Privacy Act Information Breach of Protected

Privacy Act Information

Appeal to FOIA WRNMC #14-1

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Attachment D

From: Judy.J.Bizzell.civ@health.mil

To: (b) (6)

(b) (6)

(b) (6), Judy.J.Bizzell.civ@health.mil

Sent: 11/14/2013 10:43:34 A.M. Eastern Standard Time

Subj: RE: URGENT Potential Breach of Protected Privacy Act Information

Good day Mr. Hammond – Please be advised that there is no missing DVD. As stated in my e-mail on yesterday; the contents of the DVD were copied and mailed to you. Therefore, when you were informed that “all information provided to this office was released to you “in-full” that was a true and accurate statement. The DVD has now been copied onto another DVD and the copied DVD will be mailed to you. Please look for it, via certified mail, within the next few days.

Regards,

Judy J. Bizzell

By Direction

Freedom of Information Act Officer

Walter Reed National Military Medical Center

8900 Wisconsin Avenue

Bethesda, MD 20889

(b) (6)

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Attachment D

From: (b) (6)
Sent: Thursday, November 14, 2013 6:02 AM
To: Bizzell, Judy J CIV US WRNMMC; Davidge, Joe E CIV US WRNMMC; McCall, Thurman S CTR US WRNMMC
Cc: Franz, Charles P US CPT USA; Moidel, Barbara I CIV US WRNMMC; Floyd, Cornell J CIV US WRNMMC; Logeman, Judy A CIV US WRNMMC; (b) (6);
Subject: Re: URGENT Potential Breach of Protected Privacy Act Information

Dear Ms. Bizzell, and Mr. Davidge,

Thank you for your replies. I appreciate the efforts of everyone on the WRNMMC staff.

The reason for my initial concern was that the DON JAG response to my appeal regarding my Privacy Act/FOIA request of June 29, 2013 indicated that the Privacy, FOIA and Medical Records Offices had done a thorough search for the DVD to no avail. The DON JAG letter was dated 13 Sep 13 and I had not heard anything from anyone at WRNMMC since I submitted the request in June. Did you notify Mr. Lattin and Major Contreras when you learned that you had located the DVD?

I am now concerned that the copy you mailed previously has not reached me. Please provide me a copy of your forwarding letter, certified mail tracking number and date mailed to assist in locating the missing DVD.

As I said in my prior emails following up on the status of previously submitted Privacy Act/FOIA and medical record correction requests, I am doing my best to work with you.

I need your help.

Please provide timely and complete replies to minimize the need for follow up emails and additional Privacy Act/FOIA requests. Your four email of yesterday were the first since Ms. Bizzell's email of May 23, 2013 indicating that "all information provided to this office was released to you "in-full". The Privacy Act/FOIA requests that followed were for specific, detailed record sets known to exist – more correspondence than I hoped would be needed. Some records that you were previously unable to locate have now been provided and I look forward to working cooperatively with you to locate and obtain the remaining records. I am also agreeable to potentially consolidating medical records corrections. I simply want my medical records to be complete and accurate.

Ms. Bizzell, in reply to your second email yesterday asking me not to forward emails to Mr. Davidge via you, you are aware that I was able to locate email addresses for Mr. Davidge and Mr. McCall my own after sending an email via you on 16 October and another on 18 October without a reply. You have been together on every email since, including my 12 November email following up on my 18 October email. These involved both Privacy Act and FOIA requests. I plan continue sending emails to you both when appropriate. As I said, please feel free to contact me via email.

I would like to work together with you going forward.

Thank you.

With my respect,

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

Attachment D

Robert Hammond
Commander, Supply Corps
United States Navy (Retired)

In a message dated 11/13/2013 11:04:15 A.M. Eastern Standard Time, Judy.J.Bizzell.civ@health.mil writes:

Dear Mr. Hammond

This note responds to your below request. The DVD in question is not lost; the DVD is in your FOIA file.

The following information is given to ensure your concerns are dispelled:

- DVD is labeled "Medical Records for Judy" on the first line and the second line simply reads "HIPPA".

The DVD was delivered to the Freedom of Information Act (FOIA) office by Mr. McCall and the contents were copied and mailed to you. I have requested the DVD to be copied and that DVD will be mailed to you via certified mail by week end.

Regards,

Judy J. Bizzell
By Direction

Freedom of Information Act Officer
Walter Reed National Military Medical Center
8900 Wisconsin Avenue
Bethesda, MD 20889
(301) 400-2315

From: (b) (6)
Sent: Tuesday, November 12, 2013 5:47 AM
To: Davidge, Joe E CIV US WRNMMC; Bizzell, Judy J CIV US WRNMMC; McCall, Thurman S CTR US WRNMMC
Subject: URGENT: Potential Breach of Protected Privacy Act Information

Robert Hammond

(b) (6)

November 12, 2013

Freedom of Information Act (FOIA)
Administrator, Ms. Judy Bizzell/Privacy Officer,
Walter Reed National Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Attachment D: Examples of Correspondence Faxed or Mailed to Brigadier General Clark

HP Officejet Pro 8600 N911g Series

Fax Log for
Bob Hammod

(b) (6)

Apr 17 2014 7:19PM

Last Transaction

Date	Time	Type	Station ID	Duration	Pages	Result
Digital Fax						
Apr 17	7:13PM	Fax Sent	13014003348	6:04 N/A	18	OK

First Page of Sent Fax

Robert Hammod

(b) (6)

April 17, 2014

Brigadier General Jeffrey B. Clark
Director,
Walter Reed National Medical Center (WRNMMC)
3901 Rockville Pike
Bethesda, MD 20889-5100

Subject: Request for Inquiry Regarding Two Certified Packages Containing Personally
Identifiable Information (PII)/Protected Health Information (PHI)

Reference: (a) my letter dated February 25, 2014, subject Request for Inquiry Regarding Two
Certified Packages Containing Personally Identifiable Information (PII)/Protected
Health Information (PHI); follow up

Dear Brigadier General Clark:

I am following up on my letter at reference (a), which I have included for your convenience.
Please acknowledge receipt of my letter and provide the status of your inquiry.

I asked that you initiate an inquiry into the handling of two certified mailings containing my
Protected Health Information (PHI) and Personally Identifiable Information (PII): certified mail
tracking number 7012 1640 0000 9665 1035 (mailed on November 26, 2013) and certified mail
tracking number 7012 1640 0000 9665 4524 (mailed on January 27, 2014).

To be clear, the restricted delivery package with tracking number 012 1640 0000 9665 1035
containing a DVD with hundreds of pages of my medical records has as not been accounted for.
A privacy breach has clearly occurred along with potential criminal violations of law and
false statements in connection with Privacy/FOIA requests. The following apply:

- If the DVD was not properly received and placed into an accountable system of records, a breach of my PHI/PHI has occurred.
- If the DVD was opened by someone other than Ms. Bizzell, the restricted delivery addressee, both a privacy breach and a criminal violation of 18 USC § 1702 (Obstruction of correspondence) has occurred.
- If the DVD in that package was the original DVD that I provided to Ms. Judy Logeman the WRNMMC Healthcare Resolutions Office, then that agency record was improperly removed from the accountable system of records in violation of records management laws, regulations and policies and false statements were made to the office of Navy Judge Advocate General in addressing my second appeal of my FOIA request my FOIA/Privacy Act request "Requester Number WRNMC #13-19 dated January 18, 2014.
- The DVD was clearly in WRNMMC possession at the time of my first appeal of my FOIA/Privacy Act request "Requester Number WRNMC #13-19 dated July 20, 2013.

Attachment B to NARA Complaint

Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request

From: (b) (6)
To: Judy.J.Bizzell.civ@health.mil
CC: (b) (6)
Sent: 2/25/2014 8:26:42 A.M. Eastern Standard Time
Subj: Re: WRNMMC letter of November 19, 2013;subj FOIA #14-08; follow up of Feb 17,...

Dear Ms. Bizzell,

In response to your email, I did trace my certified packages through USPS.

I sent you a certified package with restricted delivery via certified mail tracking number 7012 1640 0000 9665 1035 on November 26, 2013 and a second certified package via certified mail tracking number 7012 1640 0000 9665 4524 on January 27, 2014. Both packages contained my Protected Health Information (PHI) and Personally Identifiable Information (PII). The package 7012 1640 0000 9665 1035 contained the DVD with some of my medical records related to my FOIA/Privacy Act request "Requester Number WRNMC #13-19" along with FOIA correspondence. The package 7012 1640 0000 9665 4524 contained FOIA correspondence. USPS inquiries indicate that both packages were released to (b) (6) for delivery to you. The restricted delivery package 7012 1640 0000 9665 1035 should not have been opened by anyone other than you.

As I indicated in my FOIA follow up of January 26, 2014 (attached for your FOIA case file), the DVD that you mailed to me appears to be the original that I provided to Ms. Logeman of the Healthcare Resolutions Office vice a copy (perhaps through oversight in mailing). Since the original DVD that I provided to Ms. Logeman is an agency record, I returned it to you.

I look forward to receiving tracking numbers for my outstanding FOIA requests and to receiving the requested records. Please let me know if there is any assistance that I may provide you on any specific FOIA request.

With my respect,

Robert Hammond

In a message dated 2/18/2014 6:13:08 P.M. Eastern Standard Time, Judy.J.Bizzell.civ@health.mil writes:

Good day Mr. Hammond – Bottom Line Up Front (BLUF) – I am confused as to what you are asking of me at this point.

**Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request**

As I responded in my below email (11/14/2013) I have now mailed you the requested information twice (once in paper form and again via DVD - per your request). The DVD mailed to you was a "Copy", as you requested, so why would you "return it"? You say you sent it certified mail but did not get a return receipt. If you in fact did return it; where did you send it? Have you tracked it?

Further, I have no other letters from you Mr. Hammond, and case #13-19 is closed in this office.

Best Regards,

Judy J. Bizzell

By Direction

Freedom of Information Act Officer

Walter Reed National Military Medical Center

8900 Wisconsin Avenue

Bethesda, MD 20889

(b) (6)

From: (b) (6)

Sent: Monday, February 17, 2014 1:52 PM

**Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request**

To: Bizzell, Judy J CIV US WRNMMC

Cc: Davidge, Joe E CIV US WRNMMC

Subject: WRNMMC letter of November 19, 2013; subj FOIA #14-08; follow up of Feb 17, 2014

Robert Hammond

(b) (6)

February 17, 2014

Ms. Judy Bizzell
Freedom of Information Act (FOIA) Officer
Walter Reed National Medical Center (WRNMMC)
8901 Rockville Pike
Bethesda, MD 20889-5600

Subject: WRNMMC letter of November 19, 2013; subject Freedom of Information Act Request - #14-08
(Ref: DVD); follow up of February 17, 2014

Reference: (a) My Requester Control Number FOIA WRNMC #13-19 of June 29, 2013; subject: Privacy Act Request/FOIA Request – Medical Records; Copy of DVD Containing PDF files of Records Received as of May 14, 2012

(b) My Requester Control Number FOIA WRNMC #13-06 of June 29, 2013; subject: Privacy Act Request FOIA Request - Records from June 20, 2012 to July 5, 2012; Hatch

(c) My letter, subject: WRNMMC letter of November 19, 2013; subject Freedom of Information Act Request - #14-08 (Ref: DVD) dated of January 17, 2014

(d) My letter subject: WRNMMC letter of November 19, 2013; subject Freedom of Information Act Request - #14-08 (Ref: DVD); follow up of January 25, 2014

(e) Judy.J.Bizzell.civ@health.mil email, Sent: 11/14/2013 10:43:34 A.M. Eastern Standard Time, Subj: RE: URGENT Potential Breach of Protected Privacy Act Information Breach of Protected Privacy Act Information

Dear Ms. Bizzell,

**Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request**

I am following again on up on my letter of January 17, 2014 (reference (c)) and my letter of January 25, 2014 (reference (d)) in which I indicated that I returned the original DVD that you sent to me. I asked that you, "Please advise me if you have received it and also if you retained a copy of the DVD in your file before mailing the original." I also asked that you, "Please provide me your correct tracking control numbers for both of my requests at references (a) and (b)."

I would appreciate the courtesy of a reply to my questions above. I have not received the return receipts to my certified letters. In particular, I need to know if you received the DVD containing my sensitive medical information that I mailed back to you.

Reference (e), which is at Attachment A. also applies.

Please retain this letter along with my letters of January 17, 2014 and January 25, 2014 (references (c) and (d)) in your case file for my request WRNMC #13-19, together with my original request and all other relevant documentation.

My request WRNMC #13-19 remains open.

Your cooperation in this matter will be greatly appreciated. Thank you.

With my respect,

Robert Hammond

Copy to: J. E. Davidge, Privacy Compliance Administrator
Walter Reed National Military Medical Center
Building 1, 2nd Floor, Room 2430
8901 Rockville Pike
Bethesda, MD 20889-5600

**Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request**

Attachment A

Judy.J.Bizzell.civ@health.mil email, Sent: 11/14/2013 10:43:34 A.M.
Eastern Standard Time, Subj: RE: URGENT Potential Breach of Protected
Privacy Act Information Breach of Protected

Privacy Act Information

**Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request**

**Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request**

From: Judy.J.Bizzell.civ@health.mil

To: (b) (6)

(b) (6)

(b) (6)

Judy.J.Bizzell.civ@health.mil

Sent: 11/14/2013 10:43:34 A.M. Eastern Standard Time

Subj: RE: URGENT Potential Breach of Protected Privacy Act Information

Good day Mr. Hammond – Please be advised that there is no missing DVD. As stated in my e-mail on yesterday; the contents of the DVD were copied and mailed to you. Therefore, when you were informed that “all information provided to this office was released to you “in-full” that was a true and accurate statement. The DVD has now been copied onto another DVD and the copied DVD will be mailed to you. Please look for it, via certified mail, within the next few days.

Regards,

Judy J. Bizzell

By Direction

Freedom of Information Act Officer

Walter Reed National Military Medical Center

8900 Wisconsin Avenue

Bethesda, MD 20889

(b) (6)

Attachment B to NARA Complaint

Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request

From: (b) (6)
Sent: Thursday, November 14, 2013 6:02 AM
To: Bizzell, Judy J CIV US WRNMMC; Davidge, Joe E CIV US WRNMMC; McCall, Thurman S CTR US WRNMMC
Cc: Franz, Charles P US CPT USA; Moidel, Barbara I CIV US WRNMMC; Floyd, Cornell J CIV US WRNMMC; Logeman, Judy A CIV US WRNMMC (b) (6)
Subject: Re: URGENT Potential Breach of Protected Privacy Act Information

Dear Ms. Bizzell, and Mr. Davidge,

Thank you for your replies. I appreciate the efforts of everyone on the WRNMMC staff.

The reason for my initial concern was that the DON JAG response to my appeal regarding my Privacy Act/FOIA request of June 29, 2013 indicated that the Privacy, FOIA and Medical Records Offices had done a thorough search for the DVD to no avail. The DON JAG letter was dated 18 Sep 13 and I had not heard anything from anyone at WRNMMC since I submitted the request in June. Did you notify Mr. Lattin and Major Contreras when you learned that you had located the DVD?

I am now concerned that the copy you mailed previously has not reached me. Please provide me a copy of your forwarding letter, certified mail tracking number and date mailed to assist in locating the missing DVD.

As I said in my prior emails following up on the status of previously submitted Privacy Act/FOIA and medical record correction requests, I am doing my best to work with you.

I need your help.

Please provide timely and complete replies to minimize the need for follow up emails and additional Privacy Act/FOIA requests. Your four email of yesterday were the first since Ms. Bizzell's email of May

**Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request**

23, 2013 indicating that "all information provided to this office was released to you "in-full"." The Privacy Act/ FIOA requests that followed were for specific, detailed record sets known to exist – more correspondence than I hoped would be needed. Some records that you were previously unable to locate have now been provided and I look forward to working cooperatively with you to locate and obtain the remaining records. I am also agreeable to potentially consolidating medical records corrections. I simply want my medical records to be complete and accurate.

Ms. Bizzell, in reply to your second email yesterday asking me not to forward emails to Mr. Davidge via you, you are aware that I was able to locate email addresses for Mr. Davidge and Mr. McCall my own after sending an email via you on 16 October and another on 18 October without a reply. You have been together on every email since, including my 12 November email following up on my 18 October email. These involved both Privacy Act an FOIA requests. I plan continue sending emails to you both when appropriate. As I said, please feel free to contact me via email.

I would like to work together with you going forward.

Thank you.

With my respect,

Robert Hammond

Commander, Supply Corps
Unites States Navy (Retired)

In a message dated 11/13/2013 11:04:15 A.M. Eastern Standard Time, Judy.J.Bizzell.civ@health.mil writes:

Dear Mr. Hammond

Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request

This note responds to your below request. The DVD in question is not lost; the DVD is in your FOIA file .

The following information is given to ensure your concerns are dispelled:

- DVD is labeled "Medical Records for Judy" on the first line and the second line simply reads "HIPPA".

The DVD was delivered to the Freedom of Information Act (FOIA) office by Mr. McCall and the contents were copied and mailed to you. I have requested the DVD to be copied and that DVD will be mailed to you via certified mail by weeks end.

Regards,

Judy J. Bizzell

By Direction

Freedom of Information Act Officer

Walter Reed National Military Medical Center

8900 Wisconsin Avenue

Bethesda, MD 20889



Attachment B to NARA Complaint

**Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request**

From: (b) (6)
Sent: Tuesday, November 12, 2013 5:47 AM
To: Davidge, Joe E CIV US WRNMMC; Bizzell, Judy J CIV US WRNMMC; McCall, Thurman S CTR US WRNMMC
Subject: URGENT Potential Breach of Protected Privacy Act Information

Robert Hammond

(b) (6)

November 12, 2013

Freedom of Information Act (FOIA)
Administrator, Ms. Judy Bizzell/Privacy Officer,

Walter Reed National Medical Center (WRNMMC)

8901 Rockville Pike

Bethesda, MD 20889-5600

J. E. Davidge, HIPPA/Privacy Compliance Officer

Walter Reed National Military Medical Center (WRNMMC)

Building 1, 2nd Floor, Room 2435

8901 Rockville Pike

Bethesda, MD 20889-5600

Thurman McCall

Medical Records Administrator

Walter Reed National Medical Center

**Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request**

8901 Rockville Pike

Bethesda, MD 20889-5600

**Subject: Potential Breach of Protected Privacy Act Information – DVD Containing PDF files of
Records Received from WRNMMC as of May 14, 2012**

Dear Ms. Bizzell, Mr. Davidge and Mr. McCall,

Please refer to my letter of June 29, 2013, subject: Privacy Act Request/FOIA Request – Medical Records;
Copy of DVD Containing PDF files of Records Received as of May 14, 2012.

I am very concerned that after nearly five months, you have not been able to locate and account for this DVD, which contains my sensitive medical information (including consultations by psychiatry) along with my social security number and other personally identifiable information. This is very disturbing..

The DVD that I gave Ms. Logeman was labeled “HIPPA” and it is an agency record. I don’t understand why the DVD was not properly safeguarded as I asked and now cannot be accounted for. The thought of a possible a possible breach of my Privacy Act/HIPPA information is very troubling.

Please expedite your search for the DVD and also initiate the essential reviews / incident reporting as possible Privacy Act and HIPPA breaches. If you are unable to locate the DVD immediately, please also review the possible unauthorized destruction of this record.

I am asking that you do these things as soon as possible. If you are able to locate the DVD please send me a copy soonest by certified mail under appropriate cover letter and send me an email with the tracking information.

Attachment E: Example Emails
That Are Agency Records Subject to My FOIA Request

Please acknowledge right away that you received this email and have initiated the incident reviews.
Please let me know the status of your incident reviews along with anything else that you may be doing
by Friday, November 15, 2013.

Thank you in advance your help.

With my respect,

Robert Hammond

Commander, Supply Corps
Unites States Navy (Retired)

HP Officejet Pro 8600 N911g Series

Fax Log for
Bob Hammod

(b) (6)

Aug 16 2014 8:06PM

Last Transaction

Date	Time	Type	Station ID	Duration	Pages	Result
Digital Fax						
Aug 16	7:51PM	Fax Sent	13014003348	15:10 N/A	43	OK

First Page of Sent Fax

Robert Hammod

(b) (6)

August 16, 2014

Office of General Counsel
National Capital Region Medical Directorate
Defense Health Agency
8901 Wisconsin Avenue (Building 27)
Bethesda, MD 20889
Phone: (703) 681-6012
E-mail: OGCFOIAAppeals@rma.osd.mil

Subject: Appeal of my FOIA Request - certified mail tracking numbers 7012
1640 0000 9665 1035 and 7012 1640 0000 9665 4524

Requester Control Number: POLA WRNMC #144

References: (a) The Freedom of Information Act
(b) The Privacy Act
(c) CFR 164.526
(d) DoD 5700.7-R, September 1998, DoD Freedom of Information Act (FOIA)
Program
(e) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation
(f) Joint publication of U.S. Department of Justice, Executive Office of the
President and U.S. General Services Administration of July 2011: "Your Right to
Federal Records" (see <http://publications.usa.gov/USAPubs.php?PubID=6080>)
(g) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program

Dear Sir:

This appeal is submitted under the references above for my FOIA request at Attachment A. My FOIA request was submitted by email to Ms. Judy Bizzell (judy.j.bizzell.civ@health.mil) of the Walter Reed National Military Medical Center (WRNMMC) FOIA Office on April 28, 2014 (their fax machine was not working). The WRNMMC undated, unserialized, unsigned FOIA response is at Attachment B. This reply was received by email from Ms. Bizzell at 7/25/2014 5:11:48 P.M. Eastern Daylight Time. I have requested a dated, serialized and signed copy of Ms. Bizzell's letter, which I have not received. This appeal is only applicable to my FOA request at Attachment A; WRNMMC referenced multiple FOIA requests in their reply which may be the subject of separate subsequent appeals.

Background: This request relates to *potential* and loss or compromise of both Personal Health

HP OfficeJet Pro 8600 N911g Series

Fax Log for
Bob Hammod

(b) (6)

Aug 16 2014 7:02PM

Last Transaction

Date	Time	Type	Station ID	Duration	Pages	Result
Digital Fax						
Aug 16	6:47PM	Fax Sent	13012955522	14:44 N/A	42	OK

First Page of Sent Fax

Robert Hammond

(b) (6)

August 16, 2014

Office of General Counsel
National Capital Region Medical Directorate
Defense Health Agency
8901 Wisconsin Avenue (Building 27)
Bethesda, MD 20889
Phone: (703) 681-6012
E-mail: OGCFOIAAppeals@hna.osd.mil

Subject: Appeal of my FOIA Request - certified mail tracking numbers 7012
1640 0000 9665 1035 and 7012 1640 0000 9665 4524

Requester Control Number: FOIA WRNMC #14-I

References: (a) The Freedom of Information Act
(b) The Privacy Act
(c) CFR 164.526
(d) DoD 5700.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
(e) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation
(f) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011: "Your Right to Federal Records" (see <http://publications.usa.gov/USAPubs.php?PubID=6080>)
(g) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program

Dear Sir:

This appeal is submitted under the references above for my FOIA request at Attachment A. My FOIA request was submitted by email to Ms. Judy Bizzell (judy.j.bizzell.civ@health.mil) of the Walter Reed National Military Medical Center (WRNMMC) FOIA Office on April 28, 2014 (their fax machine was not working). The WRNMMC undated, unserialized, unsigned FOIA response is at Attachment B. This reply was received by email from Ms. Bizzell at 7/25/2014 5:11:48 P.M. Eastern Daylight Time. I have requested a dated, serialized and signed copy of Ms. Bizzell's letter, which I have not received. This appeal is only applicable to my FOIA request at Attachment A, WRNMMC referenced multiple FOIA requests in their reply which may be the subject of separate subsequent appeals.

Background. This request relates to *potential* loss or compromise of both Personal Health

**MEKI GULLEY ADMITTED DESTRUCTION, SHREDDING OF MAIL RECORDS
DURING LITIGATION
(SUPPORTING CHRONOLOGY TO DKT. NO. 30 & 33-15)**

February 12, 2014	<p>Walter Reed Mail Services Supervisor, Gulley confirmed to USPS (b) (6) that (b) (6) (mail orderly for FOIA Officer Judy Bizzell) picked up certified mail package 70121640000096654524 February 12, 2014 and that package (b) (6) picked up certified package 70121640000096651035 on December 17, 2013. Both packages were addressed to Judy Bizzell, and package 1035 was sent restricted delivery.</p> <p>See Dkt. No. 1, Complaint Ex. 18, at 11, 21 (also includes USPS image of 1035).</p> <p>USPS' (b) (6) also provided signed contemporaneous notes of her conversation with Meki Gulley. See Ex. B-4_ USPS_ (b) (6) Signed Contemporaneous Notes.</p>
April 26, 2014	FOIA Request sent to Walter Reed. Dkt. No. 1, Ex.18, at 6.
August 16, 2014	FOIA Appeal filed with DHA. Dkt. No. 1, Ex. 18.
February 15, 2015 April 5, 2015 May 10, 2015	<p>Notices sent to Walter Reed FOIA Officer and others to <u>preserve records</u> for judicial review.</p> <p>See Dkt No. 24 -6, Ex. B-5, at 1; Dkt. No. 12-5, Amended Complaint Ex. A-5, at 2; Dkt No. 12 – 7, Amended Complaint, Ex. A-6.</p>
March 2, 2016	Civil Case 16-00421-KBJ filed. See Dkt. No. 1-1.
March 12, 2016	<p>This is two years and one month after package 4524 was picked up by (b) (6) on February 12, 2014. Gulley states that hard copy records were destroyed/shredded on or after this date, even though litigation had already commenced. Also, here is no evidence that Walter Reed had at that time a record schedule for destroying certified records after two years and one month, as Gulley claims.</p> <p>In a May 22, 2017 email Walter Reed Mail Services Manager, Gulley, confirms receipt of package 4524; states hard copy records are <u>shredded after 2 years and one month</u>. Gulley previously advised (b) (6) USPS, of same by email of 8/10/2016 at 8:33:58.</p> <p>See Dkt. No. 32-9; Dkt. No. 24-6, Ex. B-5;</p>

	WALTER REED DESTROYED HARD COPY RECORDS DESTROYED AFTER START OF LITIGATION ON MARCH 2, 2016
July 28, 2017	<p>Plaintiff's List of Outstanding Records seeks:</p> <ul style="list-style-type: none"> Records relied upon by Ms. Gulley on May 22, 2017, in acknowledging receipt of certified package 7012 1640 0000 9665 4524. <i>See</i> ECF 25-2 ¶32. [Bizzell Third Decl.]. <p><i>See</i> Dkt. No 30 at 6, last bullet.</p>
July 28, 2017	<p>PLAINTIFF'S List of Outstanding Records lists "<i>Records relied upon by Ms. Gulley on May 22, 2017, in acknowledging receipt of certified package 7012 1640 0000 9665 4524</i> (Dkt. No. 33-16 ¶ 394).</p> <p>Notwithstanding the destruction of hard copy records, Walter Reed maintains extensive electronic records.</p> <p><i>See</i> Dkt. No. 22-2, Hammond Decl. ¶¶ 64, 65; Dkt. No. 24-8, Ex. B-7; Dkt. No. 22-3, ¶¶ 197 198. <i>See also</i> Dkt. No. 33-13 ¶¶ 359, 396.</p>
September 9, 2017	<p>Defendants RMSJ filed.</p> <p>Paragraph H of Plaintiff's List of Outstanding Records. Dkt. No. 30.</p> <p>Bizzell Fourth Decl. ¶ 18 does not describe any searches whatsoever for any of the specifically identified records in Paragraph H of Plaintiff's List of Outstanding Records. Dkt. No. 30. This includes, among others "<i>Records relied upon by Ms. Gulley on May 22, 2017, in acknowledging receipt of certified package 7012 1640 0000 9665 4524. See ECF 25-2 ¶32.</i>" <i>See also</i> Dkt. No. 27-1, at 77.</p> <p>Bizzell Fourth Decl. ¶ 18 states:</p> <p>Paragraph H of Plaintiff's List requested: "Records related to Certified Mail with Tracking Numbers 7012 1640 0000 9665 1035 and 7012 1640 0000 9665 4524 (Amended Complaint 11 31 - 52 and 135 - 155)." Bullets one through eleven suggest various forms of information, documents, and records related to the requested documents, or tangential documents about inquiries or investigations. The request was asked and answered. <i>See</i> Third Bizzell Declaration ¶¶ 31-32."</p> <p>Bizzell's statement above is false. These records have been destroyed or records are at risk of actual, impending, or threatened damage, alienation, or unauthorized destruction.</p>

	<p>Third Bizzell Declaration (Dkt. No 25-2) is dated <u>May 23, 2017</u>, one day after <u>Gulley's May 22, 2017 email</u>, and it does not address any of the records sought in the eleven bullets.</p> <p>Note: Bizzell <u>deceptively</u> includes Gulley email of May 22, 2017 at the end of Exhibit G, referencing responses to a completely unrelated May 23, 2014 email to which the May 22, 2017 email has no relationship whatsoever.</p>
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Accounts](#)[Help](#)
February 11, 2014

Track & Confirm Intranet Tracking Number Result

Result for Domestic Tracking Number 7012 1640 0000 9665 4524

Destination and Origin

Destination

ZIP Code	City	State
20889	BETHESDA	MD

Origin

ZIP Code	City	State
223505500	ALEXANDRIA	VA

Tracking Number Classification

Class/Service

Class/Service: Priority Mail Certified Mail
Class of Mail Code/Description: PM / Priority Mail 1-Day™

Service Delivery Information

Service Performance Date: Scheduled Delivery Date: Tuesday, 01/28/2014
Predicted Delivery Date: Tuesday, 01/28/2014
Zone: 01
PO Box: N
Other Information: [Service Calculation Information](#)

Payment

Payment Type: Other Postage
Payment Account Number: 000000000000
Postage: \$5.60
Weight: 1 lb(s) 1 oz(s)
Rate Indicator: Flat Rate Padded Envelope

Extra Services

Extra Services Details

Description	Amount
Certified Mail	\$3.30
Return Receipt	\$2.70
No Insurance Included	\$0.00

Events

Event	Event Date	Event Time	Location	Input Method	Scanner ID	Carrier Route	Other Information
DISPATCHED FROM SORT FACILITY	01/28/2014	03:33	MERRIFIELD, VA 22081	System Generated			Dispatch Label ID: D814 4128 7222 1401 2892 3719 Request Delivery Record
ENROUTE/PROCESSED	01/27/2014	20:11	MERRIFIELD, VA 22081	Scanned	AFSM100-002-1	Destined to route 208895600	
DISPATCHED TO SORT FACILITY	01/27/2014	17:58	ALEXANDRIA, VA 22311	System Generated			Closeout Label ID: CT13 8492 5000 1401 2717 1331
ACCEPT OR PICKUP	01/27/2014	17:14	ALEXANDRIA, VA 22311	Scanned	030SHQ0H16	Scanned by route 2311P591	Facility Finance Number: 510122
ACCEPT OR PICKUP	01/27/2014	12:01	ALEXANDRIA, VA 22350	Scanned			Facility Finance Number: 510114

Enter up to 10 items separated by commas.

Select Search Type: Quick Search

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(2)

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February 11, 2014

Track & Confirm Intranet Tracking Number Result

Result for Domestic Tracking Number 7012 1640 0000 9665 1035

Destination and Origin							
Destination							
ZIP Code	City	State					
20889	BETHESDA	MD					
Origin							
ZIP Code	City	State					
221809998	VIENNA	VA					
Tracking Number Classification							
Class/Service							
Class/Service: Priority Mail Certified Mail							
Class of Mail Code/Description: PM / Priority Mail 1-Day™							
Service Delivery Information							
Service Performance Date: Scheduled Delivery Date: Wednesday, 11/27/2013							
Delivery Option Indicator: 1 - Normal Delivery							
Zone: 01							
PO Box: N							
Other Information: Service Calculation Information							
Payment							
Postage: \$5.60							
Weight: 0 lb(s) 11 oz(s)							
Rate Indicator: Flat Rate Padded Envelope							
Extra Services							
Extra Services Details							
Description	Amount						
Certified Mail	\$3.10						
Restricted Delivery	\$4.75						
Return Receipt	\$2.55						
No insurance included	\$0.00						
Events							
Event	Event Date	Event Time	Location	Input Method	Scanner ID	Carrier Route	Other Information
DISPATCHED FROM SORT FACILITY	11/27/2013	02:47	MERRIFIELD, VA 22081	System Generated			Dispatch Label ID: DS14 4129 7222 1311 2701 5718 Request Delivery Record
ENROUTE/PROCESSED	11/26/2013	22:12	MERRIFIELD, VA 22081	Scanned	SPBSTS-001-000003		
DISPATCHED TO SORT FACILITY	11/28/2013	17:27	VIENNA, VA 22180	System Generated			Closeout Label ID: CT13 8595 7000 1311 2616 3033
ACCEPT OR PICKUP	11/28/2013	16:09	VIENNA, VA 22180	Scanned			Facility Finance Number: 519318
ACCEPT OR PICKUP	11/26/2013	16:07	VIENNA, VA 22180	Scanned			Facility Finance Number: 519318

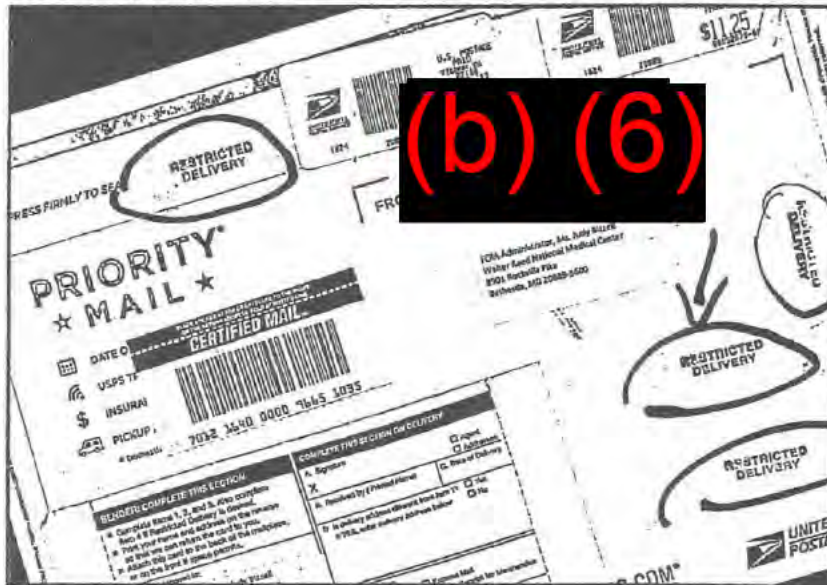
Enter up to 10 items separated by commas.

Select Search Type: Quick Search

Product Tracking System, All Rights Reserved
Version: 1.7.0.14

Dec 17th
picked
by
mail
orderly

MPE/Site/Mach: APBS/Northern VA PDC/1 Run-Oper: 0011-438 Date: 11/26/2013



MailPiece#: 10381202

Capture Time: 11/26/2013 22:12

Sort Plan: 438PG220

Operation: 438

Ind. Station: Auto 3 Side 1

Weight: 11.2 Oz. (0.7 lbs.)

MP Type: Parcel

Length: 6.6 In.

Process Time: 0.7 Sec.

Width: 12.4 In.

Bin: 8

Height: 1.8 In.

Rate:

Postage: N/A

ARU: BCR

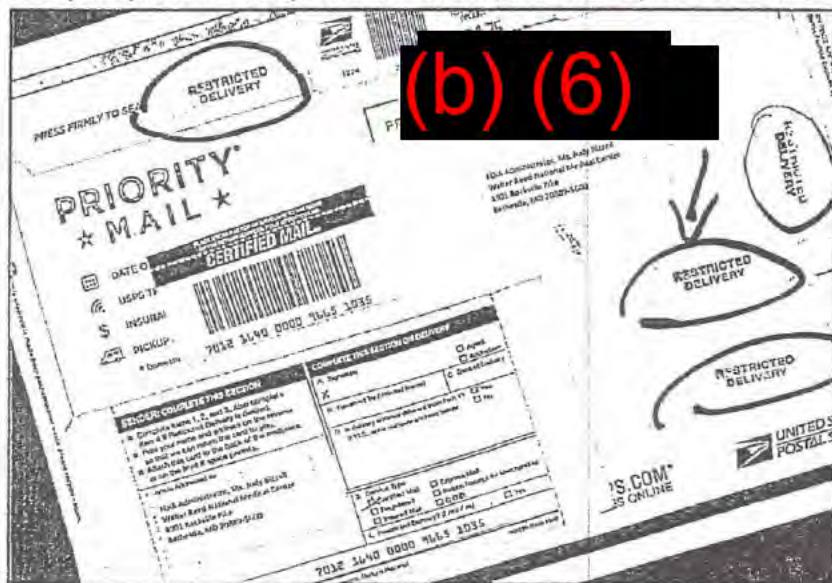
AR: BC: I2OF5: 20889

VCS:

OCR:

BCR:CODE 128: 70121640000096651035
I2OF5: 20889

MPE/Site/Mach: APBS/Northern VA PDC/1 Run-Oper: 0011-438 Date: 11/26/2013



MailPiece#: 10381202

Capture Time: 11/26/2013 22:12

Sort Plan: 438PG220

Operation: 438

Ind. Station: Auto 3 Side 1

Weight: 11.2 Oz. (0.7 lbs.)

MP Type: Parcel

Length: 6.6 In.

Process Time: 0.7 Sec.

Width: 12.4 In.

Bin: 8

Height: 1.8 In.

Rate:

Postage: N/A

ARU: BCR

AR: BC: I2OF5: 20889

VCS:

OCR:

BCR:CODE 128: 70121640000096651035

I2OF5: 20889



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To contact Set Up

Have questions? We're here to help.

7012164000096651035

November 27, 2013

Postal Product:
Priority Mail 1-Day™Features:
Certified Mail™
Return Receipt

Restricted Delivery

Email Updates

DATE & TIME

STATUS OF ITEM

LOCATION

November 27, 2013

Depart USPS Sort
Facility

MERRIFIELD, VA 22081

November 26, 2013, 10:12
pmProcessed at USPS
Origin Sort Facility

MERRIFIELD, VA 22081

November 26, 2013, 5:27
pmDispatched to Sort
Facility

VIENNA, VA 22180

November 26, 2013, 4:07
pm

Acceptance

VIENNA, VA 22180

What's your tracking (or receipt) number?

LEGAL

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Terms of Use
USPS® and the Eagle®

USPS.COM

ON USPS.COM

Commercial Services
Domestic Mail®
Express Mail® with Package
Insurance®
Global Mail®
International®
Priority Mail®
Retail®

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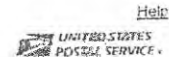
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6

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© November 26, 2013

Track & Confirm Intranet Tracking Number Result

Result for Domestic Tracking Number 7012 1640 0000 9665 1035

Destination and Origin

Destination

ZIP Code	City	State
20889	BETHESDA	MD

Origin

ZIP Code	City	State
22180	VIENNA	VA

Tracking Number Classification

Class/Service

Class/Service: Priority Mail Certified Mail
 Class of Mail Code/Description: PM / Priority Mail 1-Day™

Service Delivery Information

Service Performance Date: Scheduled Delivery Date: 11/27/2013
 Delivery Option Indicator: 1 - Normal Delivery
 Zone: 01
 PO Box: N
 Other Information: [Service Calculation Information](#)

Payment

Payment Type: Other Postage
 Payment Account Number: 000000000000
 Postage: \$5.60
 Weight: 0 lb(s) 11 oz(s)
 Rate Indicator: Flat Rate Padded Envelope

Extra Services

Extra Services Details

Description	Amount
Certified Mail	\$3.10
Restricted Delivery	\$4.75
Return Receipt	\$2.55
No insurance included	\$0.00

Events

Event	Event Date	Event Time	Location	Input Method	Scanner ID	Carrier Route	Other Information
DISPATCHED FROM SORT FACILITY	11/27/2013	02:47	MERRIFIELD, VA 22081	System Generated			Dispatch Label ID: DS14 4129 2222 1311 2701 5718 Request Delivery Record
ENROUTE/PROCESSED	11/26/2013	22:12	MERRIFIELD, VA 22081	Scanned	SPB6TS 001-000003		
DISPATCHED TO SORT FACILITY	11/26/2013	17:27	VIENNA, VA 22180	System Generated			Closure Label ID: CT13 8595 2000 1311 2916 3033
ACCEPT OR PICKUP	11/26/2013	16:09	VIENNA, VA 22180	Scanned			Facility Finance Number: 519318
ACCEPT OR PICKUP	11/26/2013	16:07	VIENNA, VA 22180	Scanned			Facility Finance Number: 519318

Enter up to 10 items separated by commas.

Select Search Type Quick Search

Submit

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 Version: 1.6.2.0

Merrifield Post Office

Dear Sir,

Please initiate a tracer on the certified mail attached. My contact information is;

Robert Hammond

(b) (6)



Office of the Chief
Records Officer for the
U.S. Government

Sent Via Email. No Hard Copy to Follow.

January 25, 2022

Ms. Luz D. Ortiz
Department of Defense
Office of the Secretary of Defense
4800 Mark Center Drive, Suite 02F09-02
Alexandria, VA 22350-3100
luz.d.ortiz.civ@mail.mil

Dear Ms. Ortiz:

The National Archives and Records Administration (NARA) has received the Department of Defense's response regarding NARA's request for further information pertaining to an allegation of an unauthorized disposition of records at the Defense Health Agency's (DHA) Walter Reed National Military Medical Center (WRNMMC) (UD-2021-0019). A member of the public alleged that in response to an April 26, 2014 FOIA request to WRNMMC an unlawful destruction of records occurred. The request (requester number: FOIA WRNMMC #14-1) sought records related to an August 16, 2014 FOIA appeal, and specifically documents with certified mail tracking numbers 70121640000096651035 and 70121640000096654524.

During your investigation, DHA determined that the applicable FOIA responsive records were provided to the requester and were not unlawfully destroyed by the agency. This allegation also pertains to litigation, *Hammond v. Department of Defense, Et Al.*, No. 1:16-cv-00421, in the United States District Court for the District of Columbia. The court's finding determined that WRNMMC conducted "reasonable and adequate" searches in response to the requester's multiple FOIA requests.

Based on the information that you provided, the reporting requirements of 36 CFR 1230.14 have been met. NARA considers this allegation of unauthorized disposition unfounded. If you have any questions, please contact me at laurence.brewer@nara.gov. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Laurence R. Brewer". The signature is written in a cursive style with a large initial 'L' and a stylized 'R'.

LAURENCE BREWER
Chief Records Officer
for the U.S. Government