

NARA Complaint. Alteration & Destruction of Records
ICO Walter Reed's FY 2013 FOIA Report

I. ALLEGATION.

I am alleging that:

1. The Walter Reed National Military Medical Center (“Walter Reed” or “WRNMMC”) FOIA Officer, **Judy J. Bizzell**, and/or others, materially altered multiple times & multiple copies of a document sought under FOIA and other subsequent federal record litigation evidentiary versions both prior to and **ADMITTEDLY** during litigation, and Defense Health Agency (“DHA”) **Agency Counsel Paul T. Cygnarowicz** allegedly had knowledge of those alterations, but nevertheless entered altered documents (which are also official records) into evidence, participating in such alleged malfeasance.
2. Original records and official federal record litigation evidentiary copies may have been destroyed or may be in imminent danger of being destroyed.

Federal entities (a) Walter Reed and (b) DHA, and no other entities, and employees (1) Bizzell and (2) Cygnarowicz are “Accused Parties” for the purpose of this narrow complaint (not to be combined with any other complaint). While Walter Reed is currently a subordinate entity of DHA, they each have their own accountable records officers/managers.

Given that multiple of the named Accused Parties purportedly possessed copies of subject records during litigation, each record copy is therefore its own evidentiary federal record and must be accounted for and addressed as to alterations.

Walter Reed and DHA have made multiple materially false and conflicting statements and inaccurate submissions to the Court regarding these records, heightening the likelihood of ongoing and/or further records destruction. Absent NARA’s intervention, there is a high likelihood that records that have not already been destroyed will imminently be destroyed by Accused Parties. *“Oh what a tangled web we weave when first we practice to deceive.”*

Only the actual production to NARA of each cited record by each Accused Party will suffice as proof that each record has not been destroyed.

As to citations in this complaint to District Court of Colombia in Civil Action No. 16-421 (KBJ) documents, Accused Parties hold those records, and they are also available from Pacert.gov.

II. ACTION SOUGHT.

1. Notify: (1) DHA and (2) 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. Promptly affirm the uncontroverted and admitted alteration of records. State in your findings exactly which record copies were altered (e.g., Original FY 2013 Walter Reed FOIA Processing Log as it existed at the time it was submitted as Walter Reed's FY 2013 Annual report, allegedly to Navy, Navy BUMED), who made each alteration, and when each alteration was made.
5. Affirm that DHA Agency Counsel Cygnarowicz was aware of material alterations, but nevertheless entered altered documents into evidence thru DOJ counsels. Cygnarowicz has stated that he reviewed DOJ documents prior to submission to the Court, and record evidence appears to document that he was fully aware of the alterations prior to doing so (and may have communicated with Bizzell regarding same). He is also believed to have prepared DHA's Vaughn Index¹ citing a 17-page Log prior to the materially-altered 16-page Log being released by Bizzell (as discussed below). Any participation in placing known altered documents into Court records must be documented. There is no Attorney-Client privilege or shield regarding such participation in alleged malfeasance.
6. If any records have not been destroyed, seek that each Accused Party provide to you each specifically enumerated record/record set in their possession, identifying by name who held the record, along with a record count and page number count for each record to prove their existence. Absent the Accused Parties producing each specifically enumerated record/record set for your verification to prove their existence, NARA will likely be misled. 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.

The records in question are the Original record of Walter Reed's FY 2013 FOIA processing log that I sought via FOIA on or about April 1, 2014 that Bizzell alleges that she sent to Navy, Navy/BUMED as Walter Reed's FY 2013 Annual FOIA Report Submission (along with the forwarding correspondence thereto) and other subsequent federal record evidentiary versions of that same Original record.² See below.

Alterations. Accused Parties Individually and/or Collectively, et. al:

1. First, Bizzell **altered both** a 16-page version and a 17-page version of the alleged Original record to produce two altered records during court proceedings with identical, multiple dated alterations (in the "Comment" column) after my April 1, 2014 FOIA request, after my May 27, 2014 and subsequent September 15, 2014 administrative appeals, and nearly a full year after the close of FY 2013 on September 30, 2013. Even

¹ A Vaughn Index is a document prepared by agencies that are opposing the disclosure of information under FOIA. The index must describe each document (or portion of each document) that has been withheld and provide a detailed justification of the agency's grounds for non-disclosure (i.e., the FOIA exemption relied upon must be stated). The term originates from the case of Vaughn v. Rosen [\[1\]](#)

Vaughn Indices are intended to permit a court "to make a rational decision [about] whether the withheld material must be produced without actually viewing the documents themselves." [\[2\]](#)

² Regardless of conflicting claims as to the records and to whom Bizzell may have given copies at some points in time, including during litigation. They are all federal records.

these incontrovertible alterations of the Original record may have occurred during litigation, which began on March 3, 2016.

2. Second, Bizzell **also admits to altering, during litigation**, a 17-page Log (cited in a Vaughn Index or the Original, unaltered Log, if different) to produce the 16-page Log cited above. Note, the page count of the Original, unaltered record (a **true** copy of which has never been produced) is unknown by me, such that it is not clear which Log was altered to produce the materially-altered 16-page Log.

I challenged that Bizzell had not produced a promised FY 2013 Log with redactions reduced from *fifty-three* exemption (b)(6) redactions to *fifteen* (as stated in her sworn declaration), and I opined (and Cygnarowicz is aware of this) that to do so Bizzell would have to: (a) again alter the 17-page version or the 16-page version already in evidence with dated alterations; or, (b) produce the actual, Original, unaltered Log that she states she submitted as Walter Reed's FY 2013 Annual FOIA report to Navy, Navy BUMED without those dated alterations and make the reduced *fifteen* redactions to that Original unaltered Log. Bizzell and Accused Parties then refused to release any Log with redactions reduced to *fifteen*. Shortly thereafter, by coincidence or otherwise, DOJ's Lead Counsel (Marina Braswell) (who had submitted records into evidence under her signature) withdrew from the case.³

Bizzell first released a materially-altered 16-page version of the alleged Original Log (and that version contained dated alterations such that it cannot be the Original Log), and then she released a 17-page version of that very same 16-page log containing the same dated alterations.

Both records produced contain identical multiple dated alterations in the "Comment" column after my April 1, 2014 FOIA request, after my May 27, 2014 and subsequent September 15, 2014 administrative appeals to DHA's Cygnarowicz, and nearly a full year after the close of FY 2013 on September 30, 2013. Neither, therefore, can be the Original Log. *See* Attachment A, 16-Page Log with Dated Material Alterations and Attachment B, 17-Page Log with Dated Material Alterations. For example, see identical comments to Walter Reed's FY 2013 FOIA Log case 13-53 and case 13-56 (involving my own (Robert Hammond) 2013 FOIA requests) with alterations dated **September 29, 2014**, stating, "*No further actions requested after litigation – No response given to requester. CLOSED –9/29/2014.*" Not only is September 29, 2014 after my May 27, 2014 and subsequent September 15, 2014 administrative appeals to DHA's Cygnarowicz, the instant "litigation" was not filed until two years later on April 3, 2016, raising questions as to when the alterations above citing "*after litigation*" were made. See below:

³ Bizzell subsequently re-released the same materially-altered 17-page Log, stating only that it was a Log that she had previously released and had apparently given to DHA at some point in time.

13-53 and case 13-56:

“No further actions requested after litigation – No response given to requester.

CLOSED – 9/29/2014”

Dated Alteration (numerous)

AFTER the close of FY 2013 on September 30, 2013, AFTER my April 1, 2014 FOIA request and AFTER my May 24, 2014 and subsequent September 15, 2014 administrative appeals to Agency Counsel Cygnarowicz.

Both Logs also have evident alterations, deletions within rows/and or deletions of entire rows.⁴

Bizzell admits under oath to altering the original FY 2013 FOIA processing log to produce a 16-page Log that differed from the 17- page Log cited in Defendant’s Vaughn Index, although her account and that of Agency counsel(s) are at odds as to the extent of the alterations.⁵

Destruction of Records. Accused Parties Individually and/or Collectively, et. al

Bizzell and Agency Counsel Cygnarowicz, et al., may have also unlawfully destroyed the following 6 specific records (which have never been produced in court); or they may be in imminent danger of being destroyed:

1. the Original Walter Reed FY 2013 FOIA Processing Log as it existed when submitted as Walter Reed’s FY 2013 Annual FOIA report, *purportedly* to Navy, Navy BUMED (page count unknown by me);
2. the forwarding correspondence to the Walter Reed FY 2013 FOIA Processing Log sent to Department of Navy (*presumed* to be an email from Bizzell with potentially multiple copy-to addressees (such as BUMED’s Della Garcia and Navy’s DONFOIA-PA office personnel (e.g., Robin Patterson)) and containing Walter Reed’s FY 2013 FOIA Processing Log as a PDF attachment);
3. the forwarding correspondence to the Walter Reed FY 2013 FOIA Processing Log potentially **also** sent to DHA (likely Nadine Brown) in addition to Navy (*presumed* to be an email from Bizzell with potentially multiple copy-to addressees and containing Walter Reed’s FY 2013 FOIA Processing Log as an attachment);

⁴ In the materially-altered Logs, there is a blank row at page 9 between the entries for requests 13-27 and 13-29 and there is no entry for request 13-28. There is a blank row at page 18 between requests 13-67 and 13-68. It appears that content of some sort was removed with respect to the Vaughn Index Log and potentially the Original Log purportedly submitted to Navy.

⁵ In contradiction to Bizzell’s statement regarding no alterations other than a font size change, Accused Parties state in their Response that there was at least one other alteration “removal of an empty line to correct a numbering and spacing problem,” See Dkt. No. 25-1 ¶¶ 54, 55. Bizzell did not state this. Bizzell stated under oath, “The loss of a page was the result of **reformatting the font size to improve the FY13 FOIA Log’s appearance.**” Accused Parties have not released any such Log with a difference in the number of rows or “lines” from the 16-page Log to the 17-page Log due to a blank space. Cygnarowicz is evidently involved in entering known altered documents into evidence, while evidently possessing a copy of the unaltered record(s).

4. the Walter Reed FY 2013 FOIA Processing Log as it existed at the time of my April 1, 2014 FOIA Request (*purportedly* the Original);
5. the Walter Reed FY 2013 FOIA Processing Log as it existed when DHA's Cygnarowicz reviewed my September 15, 2014 administrative appeal and upheld the Agency's unlawful withholding under Exemption 5.
6. the 17-page Vaughn Index Walter Reed FY 2013 FOIA Processing Log cited by Accused Parties (who later removed their claim of withholding the record under Exemption 5, clearing its release (with only *fifteen* exemption (b)(6) redactions)).

Background.

1. On or about April 1, 2014, I submitted a FOIA request to the Department of Navy BUMED seeking all records and raw data of the Fiscal Year ("FY") 2013 Annual FOIA Report submissions for Walter Reed as received by BUMED. *See* Dkt. No. 1, Complaint Ex. 3, at 20, 21.
2. My FOIA request also seeks the forwarding correspondence of Walter Reed's FY 2013 Annual FOIA Report Submission, (*presumably* sent by email from Walter Reed's FOIA Officer (Bizzell) to BUMED [and to OPNAV DNS-36, DONFIA-PA Office personnel] with the FY 2013 FOIA Processing Log as a PDF attachment).
3. On or about April 15, 2014 Navy BUMED referred my FOIA Request to Walter Reed. All the while, BUMED was getting quarterly statistical FOIA reports from Walter Reed, which were sent to DONFOIA-PA; Patterson, Robin L CIV OPNAV DNS 36 with copies to Garcia, Della W. GS BUMED. *See* Dkt. No. 1, Complaint Ex. 3, at 18, 20, 21; Dkt.24-12, Ex B-11 at 3.
4. On May 27, 2014, I appealed to DHA's Appellate Authority, Cygnarowicz, that Walter Reed had not answered my FOIA request at all, and then on September 29, 2014, I appealed Walter Reed's subsequent unlawful claim of Exemption (b)(5) in withholding the record, (which is required by the FOIA statute and 2016 FOIA Improvement Act to be released to the Public!).
5. On December 8, 2014, DHA's Agency Counsel Paul T. Cygnarowicz denied my administrative appeal for these records under Exemption 5⁶, and, therefore, had the actual Walter Reed FY 2013 FOIA processing log that Bizzell alleges that she sent to Navy BUMED as Walter Reed's FY 2013 Annual FOIA Report submission.
6. During litigation, by email (on Jun 28, 2016 at 11:43 PM), DOJ Lead Counsel (Braswell) sent my attorney the Accused Parties' **Vaughn Index** citing a 17-page Walter Reed

⁶ There is no deliberative process in purely statistical reports and the information was antecedent when I sought this information, having already been incorporated into final reports. The FOIA Improvement Act of 2016 requires that Agencies proactively disclose the raw data used in compiling their reports.

Accused Parties have also not released the forwarding correspondence of Walter Reed's FY 2013 Annual FOIA Report Submission.

Accused Parties have also not released Walter Reed's 2nd, 3rd, and 4th Quarterly FOIA Reports submissions to BUMED/OPNAV, providing contemporaneous statistical data.

DOJ ordered these quarterly FOIA Reports a following a GAO audit of significant deficiencies in DOD's FOIA practices, including (among others): deficiencies in assignment of tracking numbers; reporting to DOJ; over-use of Exemptions (b)(5) and (b)(6); and other matters. *See* GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act at <http://www.gao.gov/products/GAO-12-828>.

FOIA Processing Log responsive to my April 1, 2014 FOIA request as being withheld under Exemption 5 (as originally claimed, but then also citing Exemption 6 for certain portions, falsely alleged to be only the names of FOIA requesters seeking medical records).

7. The Proposed Vaughn Index is alleged to have been prepared by Agency Counsel Paul T. Cygnarowicz, and he allegedly possess or possessed that 17-page FY 2013 Walter Reed FOIA Processing Log cited in the Vaughn Index, as does Bizzell.
8. Walter Reed's FY 2013 FOIA Processing Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index is static. A **true copy** of that record has allegedly not been released and may have been or may about to be destroyed.
9. Walter Reed's FY 2013 FOIA Processing Log, as sent to and received by BUMED/ became a finalized report (PDF) when submitted. It is **static**. (As a data point to the approximate time the Log was sent, in 2012 Walter Reed's Bizzell sent Walter Reed's similar FY 2103 FOIA processing Log to Navy, Navy BUMED via email with attached PDF on October 1, 2013, one day after the close of the FY).
10. A **true** copy of Walter Reed's, unaltered, static FY 2013 FOIA Processing Log, as sent to and received by BUMED has incontrovertibly and verifiably not ever been released. It is presumed destroyed or in imminent danger of being destroyed.
11. During litigation (citing my April 1, 2014 FOIA Request to Navy BUMED seeking all records of the FY 2013 Annual FOIA Report Submission for Walter Reed, Dkt. No. 12, Amended Complaint ¶ 56), Accused Parties removed their claim of withholding the Original FY 2013 Log cited as Walter Reed's FY 2013 Annual Report to BUMED ("WRNMMC FOIA Office will no longer withhold from plaintiff [me] the FY 2013 FOIA Report Submission for Walter Reed.").
12. By memo dated March 9, 2017, Bizzell then released a materially-altered 16-page Walter Reed FOIA Processing Log (with redactions for *fifty-three* cases, citing Exemption 6 and citing Exemption 7). See Attachment A, 16-Page Log with Dated Material Alterations. Bizzell concurrently provided that same record to then DOJ Lead Counsel, Marina Braswell, claiming that it is the Log that Walter Reed sent as its FY 2013 Annual FOIA Report submission to BUMED/OPNAV. "*The FY13 FOIA Log is the only relevant "raw data" record of numbers the WRNMMC FOIA Office sent to BUMED for inclusion into the Congressional Report. See Dkt. No. 26-1; see also Third Bizzell Decl. Section A. ¶ 11, 17; Dkt. Dkt. No. 26, Supplemental Motion for Summary Judgement, at 6, 8; Dkt. No. 24-12, Ex. B-11, at 1 ¶ 1.c. (report sent to BUMED). [available at Pacer.gov]*
13. All the while, Bizzell, DOJ Lead Counsel (Braswell) and DHA's Agency Counsel (Paul Cygnarowicz) were purportedly in possession of the different 17-page Walter Reed FY 2013 FOIA Processing Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index (and evidently also Walter Reed's Original, unaltered FY 2013 Log in the case of Bizzell and Cygnarowicz).
14. On May 27, 2017, Bizzell then stated that she had removed her unlawful claim of Exemption (b)(7) entirely for Walter Reed's FY 2013 FOIA Processing Log as sent to/received by Navy BUMED/DONFOIA-PA and had reduced Exemption (b)(6) redactions from *fifty-three* cases to *fifteen* cases. Bizzell Third Decl., page 5. Footnote 2.⁷

⁷ "Exemption (b) (6) was applied on the previously released FY13 FOIA Log to fifty-three requests for information. Having reviewed the FY13 FOIA Log again, I reduced Exemption (b) (6) redactions to only fifteen cases, those

15. Accused Parties did not then release any Walter Reed FY 2013 FOIA Processing Log with Exemption (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases, as promised (after withdrawing their withholding under Exemptions (b)(5) and (b)(7)). See Third Bizzell Decl. ¶ 9, footnote 2.
16. Then, on July 14, 2017, Judge Jackson ordered Accused Parties and me to appear on July 25, 2017 regarding records that Accused Parties falsely stated had been released but which had not released. Such records included Walter Reed's FY 2013 FOIA Processing Log, as sent to and received by BUMED/DONFOIA-PA with (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases. See Dkt. No 27; see also Dkt. No. 28 and Order of 7/14/2017.
17. On July 24, 2017 at 5:01 PM, just before that appearance, DOJ's Lead Counsel sent my Counsel a version of Walter Reed's FY 2013 FOIA Processing Log with content and blank rows or lines that is identical to the 16-page materially-altered March 9, 2016 Bizzell memo Log (*with none of the fifty-three redactions reduced*), with the only difference being that it is 17 pages, making it appear to be the 17-page Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index. Though Accused Parties purport it to be, this 17-page Log, by virtue of its identical dated material-alterations alone cannot possibly be Walter Reed's FY 2013 FOIA Processing Log as sent to and received by Navy BUMED as Walter Reed's Annual FOIA Report submission/raw data. With dated alterations 364 days after the close of FY 2013, it is not a log provided to anyone as Walter Reed's FY 2013 FOIA report submission.
18. In Court proceedings on 7/25/2017, DOJ Lead Counsel (accompanied DHA's Agency Counsel Paul Cygnarowicz) admitted that identical dated alterations had been made to **both** the 16-page March 9, 2016 Bizzell memo Log and the 17-page Log released the night of 7/24/2017 and that neither was Walter Reed's FY 2013 FOIA Processing Log as sent to and received by Navy BUMED as Walter Reed's Annual FOIA Report submission/raw data.
19. DOJ's Lead Counsel (supported by DHA's Agency Counsel Paul Cygnarowicz) further admitted in Court proceedings on 7/25/2017, (apart from the incontrovertible dated alterations), that Bizzell altered the Original Walter Reed FOIA Processing Log from 17-pages during litigation to produce the 16-page Log accompanying her Memo dated March 9, 2017.
20. **Again, after being caught, Bizzell admitted in her sworn declaration to altering during litigation** the (alleged) Original Walter Reed FOIA Processing Log from 17-pages to produce the 16-page Log accompanying her Memo dated March 9, 2017 and contends that the only difference to the Original Log, which has never been released is, (unbelievably): "The loss of a page was the result of **reformatting the font size to improve the FY13 FOIA Log's appearance.**" See Dkt. No. 26-1, Third Bizzell Decl. ¶ 8, sentence 8 and ¶ 7, sentence 4 (admissions of alterations).⁸

which are requests for medical records, and, in an abundance of caution, those appearing to involve a request for medical records."

⁸ While any alteration is a violation of law, a careful examination of both the 17-page Log and the 16-page log with respect to the text wrapping within each cell indicates that the difference is not as Bizzell states under oath as due to a font size change, but rather simply changing the page margins during printing after being caught. Also compare page margins. I believe that alterations from the Original Log are due to deletions of content and/or entire rows/lines. NARA should be wary of any records produced by Accused Parties and potential further false claims

21. In as much as Accused Parties have never released Walter Reed’s **true**, unaltered, static FY 2013 FOIA Processing Log, as sent to and received by BUMED, I do not know the true page count of that record, whether it be 16-pages, 17-pages, or some other number.
22. I challenged that Bizzell had not produced a promised FY 2013 Log with redactions reduced from *fifty-three* exemption (b)(6) redactions to *fifteen* (as stated in her sworn declaration), and I opined (and Cygnarowicz is aware of this) that to do so Bizzell would have to: (a) again alter the 17-page version or the 16-page version already in evidence with dated alterations; or, (b) produce the actual, Original, unaltered Log that she states she submitted as Walter Reed’s FY 2013 Annual FOIA report to Navy, Navy BUMED without those dated alterations and make the reduced *fifteen* redactions to that Original unaltered Log.
23. Accused Parties then did not subsequently release any Walter Reed FY 2013 FOIA Processing Log with Exemption (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases, as promised (after withdrawing their withholding under Exemptions (b)(5) and (b)(7). *See* Third Bizzell Decla., ¶ 9, footnote 2.
24. Shortly thereafter, by coincidence or otherwise, DOJ’s Lead Counsel (Marina Braswell) (who had submitted records into evidence under her signature) withdrew from the case.

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

made about them. Further, the Original Log should not have any alterations after September 30, 2013, which is the close of FY 2013.

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 § 1230.3

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](#).)

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

With my respect,

/s/

Robert Hammond

Whistleblower

Attachments:

- A. 16-Page Log with Dated Material Alterations
- B. 17-Page Log with Dated Material Alterations

January 31, 2021

NARA Complaint, Attachment A

Materially-Altered 16-Page
Bizzell March 9, 2017
Walter Reed FY 13 FOIA Processing Log

Based on dated alterations alone this cannot be a true copy of Walter Reed's FY 2013 FOIA Processing Log sent to Navy, Navy/BUMED as Walter Reed's FY 2013 Annual FOIA Report Submission

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
13-01	10/18/12	Lexis/Nexis (on behalf of B6)	Traffic Accident Report	Security - Mr. B6	10/23/12		10/23/12	11/14/12	CLOSED 11/14/2012	(b)(6)
13-02	10/18/12	Lexis/Nexis (on behalf of B6)	Traffic Accident Report	Legal	10/23/12		10/23/12	11/14/12	Legal Admin hand-carried request along with responsive docs to this office. I reviewed, made redactions and returned to Legal for final review and release recommendation. CLOSED 11/14/2012	(b)(6)
13-03	11/5/12	Roger Myerberg (on behalf of B6)	Documents to inspection/eval/test/analy /of 23mm Medtronic Bioprosthetic valve	Contracting Cardiology/ Cardiac Cath. Clinic	11/05/12 11/14/12			11/15/12	CLOSED 12/18/2012	
13-04	11/7/12	B6	Received from DON - Redacted 1 page doc	JAG	11/7/12	11/19/12	N/A	11/19/12	Closed 11/20/2012 Documents given to B6 to mail to requester	(b)(6)

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
13-05	11/15/12	[REDACTED] B6	Names of companies awarded staffing contracts for nurses and various physicians	Health Care Service	11/19/12	11/30/12	11/19/12	12/4/12	Closed 12/4/2012 Info e-mailed to requester.	N/A
13-06	11/19/12	[REDACTED] B6	Copy of NCIS report into death of [REDACTED] B6	N/A					Not a proper FOIA. Requester identifies herself to be the "wife" on the request, however shows no identity to verify. Requester notified 1/14/13. CLOSED 3/5/13 - No response from requester	
13-07	11/19/2012	[REDACTED] B6	Copy of Contract #N4008011 - F0475	Health Care Service/ Contracting				12/11/2012	Case transferred to Pax River. CLOSED 12 11/2012 Final e-mails with Pax River - 2/4/2013	
13-08	11/20/2012	[REDACTED] B6 (Jacob Gardner Office Supplies)	Names of Credit Card Holders	Contracting					CLOSED 5/28/13	B6

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
13-09	12/3/2012	Social Security Amin on behalf of [REDACTED] B6	Medical and Psychic Records. Second request. First request went to Med Records in October	Medical Records					Medical Records will respond directly to the requester CLOSED 1/14/2013	
13-10	12/4/2012	[REDACTED] B6	EO Complaint	EO/JAG				3/4/13	Partial Release of Information CLOSED 3/4/2013	B-5; B-6
13-11	12/17/2012	[REDACTED] B6	Psychiatry Records	Psychiatry					CLOSED 7/1/2013	B-6 redaction for pseudo names
13-12	1/24/2013	[REDACTED] B6	Full Contract and amendments for contract # N00168-08-P-1372	Contracting					CLOSED 1/28/13 - requested info e-mailed to requester	B4 & B6
13-13	1/30/2013	[REDACTED] B6 (on behalf of [REDACTED] B6 - minor)	Copy of any subsequent report of [REDACTED] B6 /B7 Pediatrician and reports from Radiologist	[REDACTED] B6 Radiology					2/1/13- contacted [REDACTED] B6 regarding request. [REDACTED] B6 called back. He will contact requester and let me know. See enclosed e-mail. CLOSED 3/20/13	NO RECORD

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
13-14	2/6/2013 Hand delivered by B6	Lexis Nexis (on behalf of B6)	Accident Report	N/A	N/A	N/A	2/6/2013 - via tele	2/6/2013 - via tele	Request dated 2/6/13. Called to see if Lexis Nexis still needed info. Was informed they did not. See statement in record. CLOSED - 2/6/2013	
13-15	2/6/2013 Hand delivered by B6		Full Operative Report from 27 June 2011 surgery	Records - Denson Healthcare - Moidel	2/6/2013	2/14/2013	2/6/2013		CLOSED 3/13/13	RELEASED IN FULL
13-16	2/6/2013 Hand delivered by B6	B6	Purchases of Kimberly-Clark Corporation from 2008 to present	Contracting	2/6/2013	2/14/2013	2/6/2013	4/11/2013	Redacted copies mailed to requester CLOSED 4/11/2013	(b)(5) & (b)(6)
13-17	2/6/2013 Hand delivered by B6	Goodman, Allen & Filetti (on behalf of B6)	Copy of in/out Patient Records	Records	2/7/2013	2/19/2013			CLOSED 7/8/2013	Full Release
13-18	2/6/2013 Hand delivered by B6	Dept Vet Affairs-New Orleans (Reference - B6)	Treatment records, hospital summaries, findings and/or diagnosis for Heart Problem - 7/1/87 - 1/1/88	Records	2/7/2013	2/19/2013			CLOSED 7/8/2013	No Record

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13-19	2/7/2013	B6	Number of breast cancer surgeries performed monthly	Patient Relations					CLOSED 3/20/2013	Full Disclosure
13-20	2/26/2013	B6	Emails, Phone Calls, Letters, or other records "regarding" B6 B7, and WRNMMC, NCIS, NRO(SSFA), Portsmouth Naval Hospital and NAVCONBRIG Chesapeake.	N/A	N/A	N/A	2/5/2013		Initial response - Need to know not specified. CLOSED 6/11/2013 No response from requester	No response from Requester
13-21	3/13/2013	B6	12 month Purchase Card history	Contracting	3/20/2013	3/29/2013	3/20/2013			
13-22	3/20/2013	Robert Hammond	Lab Report/ Computer Printout - Value that would have existed in the computer between 12/23/ - 12/29/2013						Sent back to requester. Request unclear. Which Lab? or is report generated by IT? CLOSED 6/11/2013	Released all info in full

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13-23	3/21/2013	B6 (CAPT, USN)	IG Investigation Report	IG and Investigating Officer	3/21/2013	3/29/2013	3/20/2013		Office of the Navy Inspector General took control of this request - see e-mails 4/9/ - 4/10/2013. I call B6 twice requesting official letter but she has not sent one. CLOSED 4/10/2013	Non- Official Transfer (ONIG just took the case).	
13-24	4/24/2013	B6	CHCS Report	Medical Records	4/23	4/30/2013	4/24/2013		CLOSED 5/28/13	Full Release	
13-25	4/11/2013	People for the Ethical Treatment of Animals (PETA) B6	2012-present records on the use of living and/or dead animals during training on Intuitive Surgical's da Vinci Surgical System	Walter Reed Army Institute of Research (WRAIR)	4/17/2013		N/A - Transferred to WRAIR - not a WRNMMC Case	4/17/2013	4/17/2013	4/17/2013	TRANSFER

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13-26	4/24/2013	Robert Hammond	Medical records 12/2011 to 8/2012 AND in/out and emergency records from 2/21/2012 AND all records after 2/21/2012 AND copies of DD form 2870 submitted 2/21/2012 to 5/30/2012	Medical Records	4/30/2013	5/13/2013	4/30/2013		CLOSED 5/23/2013	Released all received info in FULL
13-27	4/25/2013	Calloway, LLC on behalf of [REDACTED] B6 for her sister [REDACTED] B6	EEO Settlement Case paid in Aug 2012. Want documentation.	EEO	4/30/2013	5/13/2013	4/30/2013	5/23/2013	CLOSED 5/23/2013 Transferred to NARMC - Ft Belvoir	
13-29	4/26/2013	[REDACTED] B6	Medical records - 1991 through 1995	Medical Records					CLOSED 5/28/13	No Record Requester is to contact NPRC for documents

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13-30	4/30/2013	B6	All correspondence relevant to case of US -vs- [REDACTED] B6 from 28 Dec 2000 to 31 Jan 2002	NCIS				CLOSED 7/8/2013		(b)(6)
13-31	4/30/2013	Instrument Specialists, Inc	Evaluation, rating for each factor, and overall rating of ISI proposal AND WRNMMC Contract and total scope of work for contract # RFQ763072	Contracting	4/30/2013	5/20/2013	5/2/2013			
13-32	5/1/2013	Dept of Vet Affairs on behalf of [REDACTED] B6	Treatment records, hospital summaries, findings and/or diagnoses - Jun thru Jul 2005	Records	5/2/2013	5/8/2013	5/2/2013	5/8/2013	Short suspense - Special request from VA. PAD already responded. NO RECORD. CLOSED 5/8/2013	
13-33	Out of sequence 4/16/2013	FOIA GROUP - Attn: [REDACTED] B6	Copy of contract #N0016812F7642 (SOW, Mods, Co Name, end user name and CTOR name)	Contracting	4/16/2013	5/3/2013	5/8/2013		No response from dept by suspense date. 5/8/2013 second request for docs sent to dept. CLOSED 5/24/2013	(b)(6)

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13-34	5/13/2013	B6	Documents regarding his pay	N/A	N/A	N/A	N/A	5/23/2013	NOT A PROPER FOIA CLOSED 5/23/2013	
13-35	5/28/2013	B6	NCIS Report	Armed Forces Center for Child Protection	6/13/2013 (B6)	N/A	6/13/2013	6/13/2013	Spoke with B6, B7 - Request is denied in full CLOSED 7/8/2013	(b)(6) and (b)(7)
13-36	5/24/2013	B6	1. communications /documents with or from DFAS 2. E-mail/etc regarding pay 3. Copy of DD Form 2654 sent to DFAS	Finance and Accounting Office	7/1/2013	7/11/2013	7/1/2013			
13-37	5/13/2013	B6	AHLTA report from 1 Dec 2011 through 20 Mar 2013	HIPPA/ Privacy Office	7/1/2013	7/1/2013	7/1/2013	7/1/2013	Received copy of requested items from HIPPA/Privacy Office. Redacted sponsor SSN only. CLOSED 7/1/2013	(b)(6)
13-38	7/3/2013	B6	Unclear request - Security Clearance??	N/A	N/A	N/A	7/11/2013	7/11/2013 - Via tele con w/requester	Requester is a Contractor. She will contact her HR and Security Admin here to resolve request. CLOSED 7/11/2013	N/A Request unclear.

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13-39	6/25/2013	Robert Hammond	Lab Report/ Computer Printout - Value that would have existed in the computer between 12/23/ - 12/29/2013	Records/ FOIA	Ms. Denson and I emailed regarding this request. Info already sent to requester.		N/A	7/11/2013	Letter sent to requester 7/11/13. Asked and answered from case #13-22. CLOSED 7/18/2013	
13-40	6/25/2013	Robert Hammond	Radiology and Dermatology Record along with phone consults	Records/ FOIA	Ms. Denson and I emailed regarding this request. Info already sent to requester.		N/A	7/11/2013	Letter sent to requester 7/11/13. Asked and answered from case #13-22. CLOSED 7/18/2013	
13-41	6/25/2013	Robert Hammond	Copies of DD Form 2870's (3)	Records/ FOIA	Ms. Denson and I emailed regarding this request. Info already sent to requester.		N/A	7/11/2013	Letter sent to requester 7/11/13. Asked and answered from case #13-22. CLOSED 7/18/2013	
13-42	6/25/2013	B6	Copies of "all pertinent documents of case #B6/B7 .	FOIA	N/A	N/A	N/A	7/11/2013	Denial - No written/justified reason to know info in another file. CLOSED 7/18/2013	B-6 & B-7

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13-43	6/25/2013	Robert Hammond	Name and other identifying information for the 1:1 Sitters assigned to him on Dec 25, 2011 at 2215.	FOIA Office	N/A	N/A	7/17/2013	7/17/2013	Not a proper FOIA - no will pay statement. Information not provided in record. We do not "create" records to answer requests. CLOSED 7/17/2013	
13-44	6/25/2013	Robert Hammond	Notes made by CAPT Curt Henry regarding hospital care from 24-26 Dec 2011	FOIA Office	N/A	N/A	7/17/2013	7/17/2013	Information not provided in record. We do not "create" records to answer requests. CLOSED 7/17/2013	B-6
13-45	6/25/2013	B6	Investigation documents for his daughter "B6"				7/23/2013		Awaiting response from requester CLOSED 9/25/2013	No response from requester
13-46	6/20/2013	B6	NCIS & JAG Investigation of the Death of B6	FOIA Office	N/A	N/A	7/23/2013		Awaiting response from requester CLOSED 9/25/2013	Certified Mail returned - "UNCLAIMED"
13-47	6/20/2013	B6	NCIS & JAG Investigation of the B6	FOIA Office	N/A	N/A	7/23/2013		Awaiting response from requester CLOSED - 9/19/2013	No response from requester

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13-48	6/20/2013	[REDACTED] B6	NCIS & JAG Investigation of the Death of [REDACTED] B6	FOIA Office	N/A	N/A	7/23/2013		Awaiting response from requester CLOSED 9/25/2013	Certified Mail returned - "UNCLAIMED"
13-49	7/11/2013	Archauleta/ Alsaffar & Higginbothan on behalf of [REDACTED] B6	Employment status of Dr. [REDACTED] B6	H/R	1/17/2013	7/22/2013	7/17/2013		Requester also want to know if Dr is protected under the Federal Tort Claims Act CLOSED 7/22/2013	- No written letter from [REDACTED] B6 agreeing to have info forwarded to this law firm (b)(6)
13-50	7/11/2013	Archauleta/ Alsaffar & Higginbothan on behalf of [REDACTED] B6	Employment status of Drs. [REDACTED] B6 and [REDACTED]	H/R	1/17/2013	7/22/2013	7/17/2013		Requester also want to know if Dr is protected under the Federal Tort Claims Act CLOSED 7/22/2013	No written letter from [REDACTED] B6 agreeing to have info forwarded to this law firm (b)(6)
13-51		Joseph E. Schmitz, PLLC (on behalf of [REDACTED] B6)	Investigative Report and back-up documents	Legal						
13-52	8/27/2013	Joseph Schmitz, PLLC (on behalf of [REDACTED] B6)	MOU, Shared agreement or similar docs between USUHS & WRNMMCE relating to [REDACTED] B6	Contracting, Radiology, Legal	9/19/2013		8/27/2013			

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13-53	8/12/2013	Robert ond,	Records describing SOP or treatment protocol for symptomatic acute Hyponatremia	Dept of Medicine	9/23/2013	9/27/2013	9/23/13	N//A – CASE HELD WITHOUT ACTION DUE TO LITIGATION	No further actions requested after litigation – No response given to requester. CLOSED – 9/29/2014	
13-54	8/16/2013	B6	Records of Refurbishment of the Autopsy room from 1966	Autopsy Room				10/7/2013	No Record. requester referred to National Archives CLOSED 10/7/2013	NO RECORD
13-55	8/23	Robert Hammond (processing held due to litigation) – informed to now process	ID of persons who accessed his laboratory records between 12/26/11 & 1/3/12	CHCS??	9/25/2013	10/18/2013		10/10/2013	Documents received from IT 10/9/2013 CLOSED 10/10/2013	Released in full
13-56	8/23	Robert Hammond (processing held due to litigation)	Numbers paged, text of those pages, ID of docs associated with each page & responses to pages on 12/26/2011 initiated by ANL 2LT Angela N. Leung	Telecom				N//A – CASE HELD WITHOUT ACTION DUE TO LITIGATION	No further actions requested after litigation – No response given to requester. CLOSED – 9/29/2014	

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13-57	9/9/13	B6	Service Contract of A.R.T Institute of Wash, Inc w/ WRNMMC along with number of people who reside in MD,VA or Washington who utilized IVF and ICSI, of the WRAMC Division of Reproductive Endocrinology and Infertility - 2000 to present	Contracting and/or Endocrinology						
13-58	9/9/13	B6	Terms of employment for B6 from 1/12 - 9/12	Behavioral Health Unit						
13-59	9/11	B6	medical records which may have been opened and read without authorization	N/A					Return to sender. Too broad. She must specify	Closed 9/15/ 2014 No Response From Requester
13-60	9/12	B6	Psych Records regarding Security Investigation.	Dept of Psychiatry	9/12/13	9/30/13		10/7/2013	DENIED - Per 10 USC 1102- Confidentiality of Records – Medical Quality Assurance Records. Section (a)	N/A

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									and Section (f) CLOSED 10/7/2013	
13-61	9/16/13	Dean Swartz, Esq (on behalf of [REDACTED] B6)	WRNMMC protocols for diagnosis and treatment of STEMI; providers & Supervisor for [REDACTED] B6 care while in ICE; Cath Lab results.	LEGAL - [REDACTED] B6	N/A	N/A	9/16/2013	9/16/2013	This request was sent directly to [REDACTED] B6 from Navy JAG Claim Unit in Norfolk, VA. I informed the requester that JAG would respond directly. See e-mail in folder CLOSED 9/16/2013	N/A
13-62	9/19/2013	[REDACTED] B6		IG	9/25/2013	10/9/2013	9/25/2013			
13-63	9/19/2013	Adelman, Sheff & Smith (on behalf of [REDACTED] B6)	Payroll/work attendance records from 8/26/11-3/30/12	Payroll	9/25/2013	10/9/2013	9/25/2013		CLOSED 9/15/2014 No response from Requester	
13-64	9/19/2013	LexisNexis (on behalf of [REDACTED] B6)	Military Police	Accident Report	9/25/2013	10/9/2013	9/25/2013			

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13-65	9/19/2013	LexisNexis (on behalf of B6)	Military Police	Accident Report	9/25/2013	10/9/2013	9/25/2013		CLOSED 9/30/2014	Closed per requester's
13-66	9/11/2013 Opened 9/23/2013	B6	Procedures and/or treatment guidelines for Calmare Scrambler Technology device	Pain Clinic					CLOSED 9/29/2014	RELEASED IN FULL (link to company which supplies product)
13-68	9/23/2013	B6	Command Investigation (QUANTICO)	JAG/ LEGAL Attn: B6	N/A	N/A	N/A	N/A	B6 called for Case Tracking Number ONLY. He says he is personally handling this case in the Legal office.	
13-69	9/26/2013	SA Nereida Matthew-Davis (on behalf of B6)	Investigation for employment	Psychiatry (B6)	9/26/2013	9/26/2013	9/23/2013 Having trouble finding respondent	9/26/2013.	Info sent to B6 B6 9/26/2013. She will respond directly to B6. CLOSED 9/26/2013	

NARA Complaint, Attachment B

Materially-Altered 17-Page
February 24, 2017
Walter Reed FY 13 FOIA Processing Log

Based on dated alterations alone this cannot be a true copy of Walter Reed's FY 2013 FOIA Processing Log sent to Navy, Navy/BUMED as Walter Reed's FY 2013 Annual FOIA Report Submission

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13-01	10/18/12	Lexis/Nexis (on behalf of [REDACTED] B6)	Traffic Accident Report	Security - Mr. [REDACTED] B6	10/23/12		10/23/12	11/14/12	CLOSED 11/14/2012	(b)(6)
13-02	10/18/12	Lexis/Nexis (on behalf of [REDACTED] B6)	Traffic Accident Report	Legal	10/23/12		10/23/12	11/14/12	Legal Admin hand-carried request along with responsive docs to this office. I reviewed, made redactions and returned to Legal for final review and release recommendation. CLOSED 11/14/2012	(b)(6)
13-03	11/5/12	Roger Myerberg (on behalf of [REDACTED] B6)	Documents to inspection/eval/test/analy /of 23mm Medtronic Bioprosthetic valve	Contracting Cardiology/ Cardiac Cath. Clinic	11/05/12 11/14/12		11/15/12		CLOSED 12/18/2012	
13-04	11/7/12	[REDACTED] B6	Received from DON - Redacted 1 page doc	JAG	11/7/12	11/19/12	N/A	11/19/12	Closed 11/20/2012 Documents given to [REDACTED] B6 to mail to requester	(b)(6)

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13-05	11/15/12	[REDACTED] B6	Names of companies awarded staffing contracts for nurses and various physicians	Health Care Service	11/19/12	11/30/12	11/19/12	12/4/12	Closed 12/4/2012 Info e-mailed to requester.	N/A
13-06	11/19/12	[REDACTED] B6	Copy of NCIS report into death of [REDACTED] [REDACTED] B6	N/A					Not a proper FOIA. Requester identifies herself to be the "wife" on the request, however shows no identity to verify. Requester notified 1/14/13. CLOSED 3/5/13 - No response from requester	
13-07	11/19/2012	[REDACTED] B6	Copy of Contract #N4008011 - F0475	Health Care Service/ Contracting				12/11/2012	Case transferred to Pax River. CLOSED 12 11/2012 Final e-mails with Pax River - 2/4/2013	

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13-08	11/20/2012	B6 (Jacob Gardner Office Supplies)	Names of Credit Card Holders	Contracting					CLOSED 5/28/13	B6
13-09	12/3/2012	Social Security Amin on behalf of B6	Medical and Psychic Records. Second request. First request went to Med Records in October	Medical Records					Medical Records will respond directly to the requester CLOSED 1/14/2013	
13-10	12/4/2012	B6	EO Complaint	EO/JAG				3/4/13	Partial Release of Information CLOSED 3/4/2013	B-5; B-6
13-11	12/17/2012	B6	Psychiatry Records	Psychiatry					CLOSED 7/1/2013	B-6 redaction for pseudo names
13-12	1/24/2013	B6	Full Contract and amendments for contract # N00168-08-P-1372	Contracting					CLOSED 1/28/13 - requested info e-mailed to requester	B4 & B6

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13-13	1/30/2013	B6 (on behalf of B6 - minor)	Copy of any subsequent report of B6 Pediatrician and reports from Radiologist	B6 Radiology					2/1/13- contacted B6 regarding request. B6 called back. He will contact requester and let me know. See enclosed e-mail. CLOSED 3/20/13	NO RECORD
13-14	2/6/2013 Hand delivered by B6	Lexis Nexis (on behalf of B6)	Accident Report	N/A	N/A	N/A	2/6/2013 - via tele	2/6/2013 - via tele	Request dated 2/6/13. Called to see if Lexis Nexis still needed info. Was informed they did not. See statement in record. CLOSED - 2/6/2013	
13-15	2/6/2013 Hand delivered by B6		Full Operative Report from 27 June 2011 surgery	Records - Denson Healthcare - Moidel	2/6/2013	2/14/2013	2/6/2013		CLOSED 3/13/13	RELEASED IN FULL
13-16	2/6/2013 Hand delivered by B6	B6	Purchases of Kimberly-Clark Corporation from 2008 to present	Contracting	2/6/2013	2/14/2013	2/6/2013	4/11/2013	Redacted copies mailed to requester CLOSED 4/11/2013	(b)(5) & (b)(6)

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13-17	2/6/2013 Hand delivered by B6	Goodman, Allen & Filetti (on behalf of B6)	Copy of in/out Patient Records	Records	2/7/2013	2/19/2013			CLOSED 7/8/2013	Full Release
13-18	2/6/2013 Hand delivered by B6	Dept Vet Affairs-New Orleans (Reference - B6)	Treatment records, hospital summaries, findings and/or diagnosis for Heart Problem - 7/1/87 - 1/1/88	Records	2/7/2013	2/19/2013			CLOSED 7/8/2013	No Record
13-19	2/7/2013	B6	Number of breast cancer surgeries performed monthly	Patient Relations					CLOSED 3/20/2013	Full Disclosure
13-20	2/26/2013	B6	Emails, Phone Calls, Letters, or other records "regarding" B6, and WRNMMC, NCIS, NRO(SSFA), Portsmouth Naval Hospital and NAVCONBRIG Chesapeake.	N/A	N/A	N/A	2/5/2013		Initial response - Need to know not specified. CLOSED 6/11/2013 No response from requester	No response from Requester

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13-21	3/13/2013	B6	12 month Purchase Card history	Contracting	3/20/2013	3/29/2013	3/20/2013			
13-22	3/20/2013	Robert Hammond	Lab Report/ Computer Printout - Value that would have existed in the computer between 12/23/ - 12/29/2013						Sent back to requester. Request unclear. Which Lab? or is report generated by IT? CLOSED 6/11/2013	Released all info in full
13-23	3/21/2013	B6 (CAPT, USN)	IG Investigation Report	IG and Investigating Officer	3/21/2013	3/29/2013	3/20/2013		Office of the Navy Inspector General took control of this request - see e-mails 4/9/ - 4/10/2013. I call B6 twice requesting official letter but she has not sent one. CLOSED 4/10/2013	Non- Official Transfer (ONIG just took the case).
13-24	4/24/2013	B6	CHCS Report	Medical Records	4/23	4/30/2013	4/24/2013			Full Release CLOSED 5/28/13

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13-25	4/11/2013	People for the Ethical Treatment of Animals (PETA) B6	2012-present records on the use of living and/or dead animals during training on Intuitive Surgical's da Vinci Surgical System	Walter Reed Army Institute of Research (WRAIR)	4/17/2013	N/A - Transferred to WRAIR - not a WRNMMC Case	4/17/2013	4/17/2013	Took awhile to find the office to send request to at WRAIR. Website give office of PAO but that office gave another number to an office that didn't exist. 5/8/2013 found B6 at USARMC - Ft. Detrick Transferred request. Requester notified. CLOSED 5/8/2013	TRANSFER
13-26	4/24/2013	Robert Hammond	Medical records 12/2011 to 8/2012 AND in/out and emergency records from 2/21/2012 AND all records after 2/21/2012 AND copies of DD form 2870 submitted 2/21/2012 to 5/30/2012	Medical Records	4/30/2013	5/13/2013	4/30/2013		CLOSED 5/23/2013	Released all received info in FULL

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CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
13-27	4/25/2013	Calloway, LLC on behalf of [REDACTED] B6 for her sister [REDACTED] B6	EEO Settlement Case paid in Aug 2012. Want documentation.	EEO	4/30/2013	5/13/2013	4/30/2013	5/23/2013	CLOSED 5/23/2013 Transferred to NARMC - Ft Belvoir	
13-29	4/26/2013	[REDACTED] B6	Medical records - 1991 through 1995	Medical Records					CLOSED 5/28/13	No Record Requester is to contact NPRC for documents
13-30	4/30/2013	[REDACTED] B6	All correspondence relevant to case of US -vs- [REDACTED] B6 from 28 Dec 2000 to 31 Jan 2002	NCIS				CLOSED 7/8/2013		(b)(6)
13-31	4/30/2013	Instrument Specialists, Inc	Evaluation, rating for each factor, and overall rating of ISI proposal AND WRNMMC	Contracting	4/30/2013	5/20/2013	5/2/2013			

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Oct 2012 - Sep 2013

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
			Contract and total scope of work for contract # RFQ763072							
13-32	5/1/2013	Dept of Vet Affairs on behalf of [REDACTED] B6	Treatment records, hospital summaries, findings and/or diagnoses - Jun thru Jul 2005	Records	5/2/2013	5/8/2013	5/2/2013	5/8/2013	Short suspense - Special request from VA. PAD already responded. NO RECORD. CLOSED 5/8/2013	
13-33	Out of sequence 4/16/2013	FOIA GROUP - Attn: [REDACTED] B6	Copy of contract #N0016812F7642 (SOW, Mods, Co Name, end user name and CTOR name)	Contracting	4/16/2013	5/3/2013	5/8/2013		No response from dept by suspense date. 5/8/2013 second request for docs sent to dept. CLOSED 5/24/2013	(b)(6)
13-34	5/13/2013	[REDACTED] B6	Documents regarding his pay	N/A	N/A	N/A	N/A	5/23/2013	NOT A PROPER FOIA CLOSED 5/23/2013	
13-35	5/28/2013	[REDACTED] B6)	NCIS Report	Armed Forces Center for Child Protection	6/13/2013 ([REDACTED]) B6)	N/A	6/13/2013	6/13/2013	Spoke with [REDACTED] B6, [REDACTED] - Request is denied in full CLOSED 7/8/2013	(b)(6) and (b)(7)

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CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
13-36	5/24/2013	B6	1. communications /documents with or from DFAS 2. E-mail/etc regarding pay 3. Copy of DD Form 2654 sent to DFAS	Finance and Accounting Office	7/1/2013	7/11/2013	7/1/2013			
13-37	5/13/2013	B6	AHLTA report from 1 Dec 2011 through 20 Mar 2013	HIPPA/ Privacy Office	7/1/2013	7/1/2013	7/1/2013	7/1/2013	Received copy of requested items from HIPPA/Privacy Office. Redacted sponsor SSN only. CLOSED 7/1/2013	(b)(6)
13-38	7/3/2013	B6	Unclear request - Security Clearance??	N/A	N/A	N/A	7/11/2013	7/11/2013 - Via tele con w/requester	Requester is a Contractor. She will contact her HR and Security Admin here to resolve request. CLOSED 7/11/2013	N/A Request unclear.
13-39	6/25/2013	Robert Hammond	Lab Report/ Computer Printout - Value that would have existed in the computer between 12/23/ - 12/29/2013	Records/ FOIA		Ms. Denson and I emailed regarding this request. Info already sent to requester.		N/A	Letter sent to requester 7/11/13. Asked and answered from case #13-22. CLOSED 7/18/2013	

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Oct 2012 - Sep 2013

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
13-40	6/25/2013	Robert Hammond	Radiology and Dermatology Record along with phone consults	Records/ FOIA	Ms. Denson and I emailed regarding this request. Info already sent to requester.		N/A	7/11/2013	Letter sent to requester 7/11/13. Asked and answered from case #13-22. CLOSED 7/18/2013	
13-41	6/25/2013	Robert Hammond	Copies of DD Form 2870's (3)	Records/ FOIA	Ms. Denson and I emailed regarding this request. Info already sent to requester.		N/A	7/11/2013	Letter sent to requester 7/11/13. Asked and answered from case #13-22. CLOSED 7/18/2013	
13-42	6/25/2013	B6	Copies of "all pertinent documents of case # B6 ."	FOIA	N/A	N/A	N/A	7/11/2013	Denial - No written/justified reason to know info in another file. CLOSED 7/18/2013	B-6 & B-7
13-43	6/25/2013	Robert Hammond	Name and other identifying information for the 1:1 Sitters assigned to him on Dec 25, 2011 at 2215.	FOIA Office	N/A	N/A	7/17/2013	7/17/2013	Not a proper FOIA - no will pay statement. Information not provided in record. We do not "create" records to answer requests. CLOSED 7/17/2013	

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13-44	6/25/2013	Robert Hammond	Notes made by CAPT Curt Henry regarding hospital care from 24-26 Dec 2011	FOIA Office	N/A	N/A	7/17/2013	7/17/2013	Information not provided in record. We do not "create" records to answer requests. CLOSED 7/17/2013	B-6
13-45	6/25/2013	B6	Investigation documents for his daughter "B6"				7/23/2013		Awaiting response from requester CLOSED 9/25/2013	No response from requester
13-46	6/20/2013	B6	NCIS & JAG Investigation of the Death of B6	FOIA Office	N/A	N/A	7/23/2013		Awaiting response from requester CLOSED 9/25/2013	Certified Mail returned - "UNCLAIMED"
13-47	6/20/2013	B6	NCIS & JAG Investigation of the B6	FOIA Office	N/A	N/A	7/23/2013		Awaiting response from requester CLOSED - 9/19/2013	No response from requester
13-48	6/20/2013	B6	NCIS & JAG Investigation of the Death of B6	FOIA Office	N/A	N/A	7/23/2013		Awaiting response from requester CLOSED 9/25/2013	Certified Mail returned - "UNCLAIMED"

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Oct 2012 - Sep 2013

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13-49	7/11/2013	Archauleta/ Alsaffar & Higginbothan on behalf of [REDACTED] B6	Employment status of Dr. [REDACTED] B6	H/R	1/17/2013	7/22/2013	7/17/2013		Requester also want to know if Dr is protected under the Federal Tort Claims Act CLOSED 7/22/2013	- No written letter from [REDACTED] B6 agreeing to have info forwarded to this law firm (b)(6)
13-50	7/11/2013	Archauleta/ Alsaffar & Higginbothan on behalf of [REDACTED] B6	Employment status of Drs. [REDACTED] and [REDACTED] B6	H/R	1/17/2013	7/22/2013	7/17/2013		Requester also want to know if Dr is protected under the Federal Tort Claims Act CLOSED 7/22/2013	No written letter from [REDACTED] B6 agreeing to have info forwarded to this law firm (b)(6)
13-51		Joseph E. Schmitz, PLLC (on behalf of [REDACTED] B6	Investigative Report and back-up documents	Legal						
13-52	8/27/2013	Joseph Schmitz, PLLC (on behalf of [REDACTED] B6)	MOU, Shared agreement or similar docs between USUHS & WRNMMCE relating to [REDACTED] B6	Contracting, Radiology, Legal	9/19/2013		8/27/2013			
13-53	8/12/2013	Robert ond,	Records describing SOP or treatment protocol for symptomatic	Dept of Medicine	9/23/2013	9/27/2013	9/23/13	N//A – CASE HELD WITHOUT ACTION DUE TO LITIGATION	No further actions requested after litigation – No response given to requester.	

FY13 FOIA PROCESSING LOG

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			acute Hyponatremia						CLOSED – 9/29/2014	
13-54	8/16/2013	B6	Records of Refurbishment of the Autopsy room from 1966	Autopsy Room				10/7/2013	No Record. requester referred to National Archives CLOSED 10/7/2013	NO RECORD
13-55	8/23	Robert Hammond (processing held due to litigation) – informed to now process	ID of persons who accessed his laboratory records between 12/26/11 & 1/3/12	CHCS??	9/25/2013	10/18/2013		10/10/2013	Documents received from IT 10/9/2013 CLOSED 10/10/2013	Released in full
13-56	8/23	Robert Hammond (processing held due to litigation)	Numbers paged, text of those pages, ID of docs associated with each page & responses to pages on 12/26/2011 initiated by ANL 2LT Angela N. Leung	Telecom				N//A – CASE HELD WITHOUT ACTION DUE TO LITIGATION	No further actions requested after litigation – No response given to requester. CLOSED – 9/29/2014	

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

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13-57	9/9/13	B6	Service Contract of A.R.T Institute of Wash, Inc w/ WRNMMC along with number of people who reside in MD,VA or Washington who utilized IVF and ICSI, of the WRAMC Division of Reproductive Endocrinology and Infertility - 2000 to present	Contracting and/or Endocrinology						
13-58	9/9/13	B6	Terms of employment for B6 from 1/12 - 9/12	Behavioral Health Unit						
13-59	9/11	B6	medical records which may have been opened and read without authorization	N/A					Return to sender. Too broad. She must specify	Closed 9/15/ 2014 No Response From Requester
13-60	9/12	B6	Psych Records regarding Security Investigation.	Dept of Psychiatry	9/12/13	9/30/13		10/7/2013	DENIED - Per 10 USC 1102- Confidentiality of Records – Medical Quality Assurance	N/A

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

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									Records. Section (a) and Section (f) CLOSED 10/7/2013	
13-61	9/16/13	Dean Swartz, Esq (on behalf of [REDACTED] B6)	WRNMMC protocols for diagnosis and treatment of STEMI; providers & Supervisor for [REDACTED] B6 care while in ICE; Cath Lab results.	LEGAL - [REDACTED] B6	N/A	N/A	9/16/2013	9/16/2013	This request was sent directly to [REDACTED] B6 from Navy JAG Claim Unit in Norfolk, VA. I informed the requester that JAG would respond directly. See e-mail in folder CLOSED 9/16/2013	N/A
13-62	9/19/2013	[REDACTED] B6		IG	9/25/2013	10/9/2013	9/25/2013			
13-63	9/19/2013	Adelman, Sheff & Smith (on behalf of [REDACTED] B6)	Payroll/work attendance records from 8/26/11-3/30/12	Payroll	9/25/2013	10/9/2013	9/25/2013		CLOSED 9/15/2014 No response from Requester	
13-64	9/19/2013	LexisNexis (on behalf of [REDACTED] B6)	Military Police	Accident Report	9/25/2013	10/9/2013	9/25/2013			

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Oct 2012 - Sep 2013

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13-65	9/19/2013	LexisNexis (on behalf of B6)	Military Police	Accident Report	9/25/2013	10/9/2013	9/25/2013		CLOSED 9/30/2014	Closed per requester's
13-66	9/11/2013 Opened 9/23/2013	B6	Procedures and/or treatment guidelines for Calmare Scrambler Technology device	Pain Clinic					CLOSED 9/29/2014	RELEASED IN FULL (link to company which supplies product)
13-68	9/23/2013	B6	Command Investigation (QUANTICO)	JAG/ LEGAL Attn: B6	N/A	N/A	N/A	N/A	B6 called for Case Tracking Number ONLY. He says he is personally handling this case in the Legal office.	
13-69	9/26/2013	SA Nereida Matthew-Davis (on behalf of B6)	Investigation for employment	Psychiatry (B6)	9/26/2013	9/26/2013	9/23/2013 Having trouble finding respondent	9/26/2013.	Info sent to B6 B6 9/26/2013. She will respond directly to B6. CLOSED 9/26/2013	

**IMPORTANCE HIGH. DHA and WALTER REED not Navy.RE: NARA Complaint.
Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report**

(b) (6) via Unauthorized Disposition UnauthorizedDisposition@nara.gov Mon, Feb 1, 2021 at 3:36 PM
Reply-to: (b) (6)
To: Jametta Davis <UnauthorizedDisposition@nara.gov>, Andrea Riley <andrea.riley@nara.gov>, GRS_Team
<GRS_Team@nara.gov>
Cc: (b) (6)

Ms. Davis and NARA unauthorized disposition staff,

This is a completely different matter, separate from Navy, involving alteration of records during litigation by Walter Reed and DHA and further destruction of records.

Please promptly confirm that you are not combining these distinctly different Complaints against different agencies with different allegations.

Pls see below.

I. ALLEGATION.

I am alleging that:

- 1 The Walter Reed National Military Medical Center (“Walter Reed” or “WRNMMC”) FOIA Officer, **Judy J. Bizzell**, and/or others, materially altered multiple times & multiple copies of a document sought under FOIA and other subsequent federal record litigation evidentiary versions both prior to and **ADMITTEDLY** during litigation, and Defense Health Agency (“DHA”) **Agency Counsel Paul T. Cygnarowicz** allegedly had knowledge of those alterations, but nevertheless entered altered documents (which are also official records) into evidence, participating in such alleged malfeasance.
- 2 Original records and official federal record litigation evidentiary copies may have been destroyed or may be in imminent danger of being destroyed.

Federal entities (a) Walter Reed and (b) DHA, and no other entities, and employees (1) Bizzell and (2) Cygnarowicz are “Accused Parties” for the purpose of this narrow complaint (not to be combined with any other complaint). While Walter Reed is currently a subordinate entity of DHA, they each have their own accountable records officers/managers.

Thank you in advance for your integrity and perseverance.

With my respect,

Robert Hammond

Whistleblower

From Jametta Davi UnauthorizedDisposition@nara.gov
Sent: Monday, February 1, 2021 2:20 PM
To: (b) (6)
Subject: Re: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report

Dear Mr. Hammond,

Thank you for providing the additional information. We are continuing to work with the Navy to get this matter resolved.

On Mon, Feb 1, 2021 at 8:04 AM (b) (6) via Unauthorized Disposition <UnauthorizedDisposition@nara.gov> wrote

(Best Viewed as HTML. Thx.)

Pls see below and the complete PDF complaint with footnotes and attachments, "NARA Complaint Alteration & Destruction of Records ICO Walter Reed FY 2013 FOIA Report w. attach.pdf." A soft copy of Complaint narrative is also attached to assist you

Thank you in advance for your integrity and perseverance.

With my respect,

Robert Hammond

Whistleblower

January 31, 2021

NARA Complaint. Alteration & Destruction of Records
ICO Walter Reed's FY 2013 FOIA Report

I. ALLEGATION.

I am alleging that:

1. The Walter Reed National Military Medical Center (“Walter Reed” or “WRNMMC”) FOIA Officer, **Judy J. Bizzell**, and/or others, materially altered multiple times & multiple copies of a document sought under FOIA and other subsequent federal record litigation evidentiary versions both prior to and **ADMITTEDLY** during litigation, and Defense Health Agency (“DHA”) **Agency Counsel Paul T. Cygnarowicz** allegedly had knowledge of those alterations, but nevertheless entered altered documents (which are also official records) into evidence, participating in such alleged malfeasance.
- 2 Original records and official federal record litigation evidentiary copies may have been destroyed or may be in imminent danger of being destroyed.

Federal entities (a) Walter Reed and (b) DHA, and no other entities, and employees (1) Bizzell and (2) Cygnarowicz are “Accused Parties” for the purpose of this narrow complaint (not to be combined with any other complaint) While Walter Reed is currently a subordinate entity of DHA, they each have their own accountable records officers/managers.

Given that multiple of the named Accused Parties purportedly possessed copies of subject records during litigation, each record copy is therefore its own evidentiary federal record and must be accounted for and addressed as to alterations

Walter Reed and DHA have made multiple materially false and conflicting statements and inaccurate submissions to the Court regarding these records, heightening the likelihood of ongoing and/or further records destruction. Absent NARA’s intervention, there is a high likelihood that records that have not already been destroyed will imminently be destroyed by Accused Parties *“Oh what a tangled web we weave when first we practice to deceive.”*

Only the actual production to NARA of each cited record by each Accused Party will suffice as proof that each record has not been destroyed.

As to citations in this complaint to District Court of Colombia in Civil Action No 16 421 (KBJ) documents, Accused Parties hold those records, and they are also available from Pacert.gov.

II. ACTION SOUGHT.

1. Notify: (1) DHA and (2) 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. Promptly affirm the uncontroverted and admitted alteration of records. State in your findings exactly which record copies were altered (e g , Original FY 2013 Walter Reed FOIA Processing Log as it

existed at the time it was submitted as Walter Reed's FY 2013 Annual report, allegedly to Navy, Navy BUMED), who made each alteration, and when each alteration was made.

5. Affirm that DHA Agency Counsel Cygnarowicz was aware of material alterations, but nevertheless entered altered documents into evidence thru DOJ counsels. Cygnarowicz has stated that he reviewed DOJ documents prior to submission to the Court, and record evidence appears to document that he was fully aware of the alterations prior to doing so (and may have communicated with Bizzell regarding same). He is also believed to have prepared DHA's Vaughn Index^[1] citing a 17-page Log prior to the materially-altered 16-page Log being released by Bizzell (as discussed below). Any participation in placing known altered documents into Court records must be documented. There is no Attorney-Client privilege or shield regarding such participation in alleged malfeasance.
6. If any records have not been destroyed, seek that each Accused Party provide to you each specifically enumerated record/record set in their possession, identifying by name who held the record, along with a record count and page number count for each record to prove their existence. Absent the Accused Parties producing each specifically enumerated record/record set for your verification to prove their existence, NARA will likely be mis-lead. 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.

The records in question are the Original record of Walter Reed's FY 2013 FOIA processing log that I sought via FOIA on or about April 1, 2014 that Bizzell alleges that she sent to Navy, Navy/BUMED as Walter Reed's FY 2013 Annual FOIA Report Submission (along with the forwarding correspondence thereto) and other subsequent federal record evidentiary versions of that same Original record.^[2] See below.

Alterations. Accused Parties Individually and/or Collectively, et. al:

1. First, Bizzell **altered both** a 16-page version and a 17-page version of the alleged Original record to produce two altered records during court proceedings with identical, multiple dated alterations (in the "Comment" column) after my April 1, 2014 FOIA request, after my May 27, 2014 and subsequent September 15, 2014 administrative appeals, and nearly a full year after the close of FY 2013 on September 30, 2013. Even these incontrovertible alterations of the Original record may have occurred during litigation, which began on March 3, 2016.
2. Second, Bizzell **also admits to altering, during litigation**, a 17-page Log (cited in a Vaughn Index or the Original, unaltered Log, if different) to produce the 16-page Log cited above. Note, the page count of the Original, unaltered record (a **true** copy of which has never been produced) is unknown by me, such that it is not clear which Log was altered to produce the materially-altered 16-page Log.

I challenged that Bizzell had not produced a promised FY 2013 Log with redactions reduced from *fifty-three* exemption (b)(6) redactions to *fifteen* (as stated in her sworn declaration), and I opined (and Cygnarowicz is aware of this) that to do so Bizzell would have to: (a) again alter the 17-page version or the 16-page version already in evidence with dated alterations; or, (b) produce the actual, Original, unaltered Log that she states she submitted as Walter Reed's FY 2013 Annual FOIA report to Navy, Navy BUMED without those dated alterations and make the reduced *fifteen* redactions to that Original unaltered Log. Bizzell and Accused Parties then refused to release any Log with redactions reduced to *fifteen*.

Shortly thereafter, by coincidence or otherwise, DOJ's Lead Counsel (Marina Braswell) (who had submitted records into evidence under her signature) withdrew from the case.^[3]

Bizzell first released a materially-altered 16-page version of the alleged Original Log (and that version contained dated alterations such that it cannot be the Original Log), and then she released a 17-page version of that very same 16-page log containing the same dated alterations.

Both records produced contain identical multiple dated alterations in the "Comment" column after my April 1, 2014 FOIA request, after my May 27, 2014 and subsequent September 15, 2014 administrative appeals to DHA's Cygnarowicz, and nearly a full year after the close of FY 2013 on September 30, 2013. Neither, therefore, can be the Original Log. See Attachment A, 16-Page Log with Dated Material Alterations and Attachment B, 17-Page Log with Dated Material Alterations. For example, see identical comments to Walter Reed's FY 2013 FOIA Log case 13-53 and case 13-56 (involving my own (Robert Hammond) 2013 FOIA requests) with alterations dated **September 29, 2014**, stating, "*No further actions requested after litigation – No response given to requester. CLOSED – 9/29/2014.*" Not only is September 29, 2014 after my May 27, 2014 and subsequent September 15, 2014 administrative appeals to DHA's Cygnarowicz, the instant "litigation" was not filed until two years later on April 3, 2016, raising questions as to when the alterations above citing "*after litigation*" were made. See below:

13-53 and case 13-56:
"No further actions requested after litigation – No response given to requester. **CLOSED – 9/29/2014**"

Dated Alteration (numerous)
AFTER the close of FY 2013 on September 30, 2013, AFTER my April 1, 2014 FOIA request and AFTER my May 24, 2014 and subsequent September 15, 2014 administrative appeals to Agency Counsel **Cygnarowicz**.

Both Logs also have evident alterations, deletions within rows/and or deletions of entire rows.^[4]

Bizzell admits under oath to altering the original FY 2013 FOIA processing log to produce a 16-page Log that differed from the 17- page Log cited in Defendant's Vaughn Index, although her account and that of Agency counsel(s) are at odds as to the extent of the alterations.^[5]

Destruction of Records. Accused Parties Individually and/or Collectively, et. al

Bizzell and Agency Counsel Cygnarowicz, et al., may have also unlawfully destroyed the following **6** specific records (which have never been produced in court); or they may be in imminent danger of being

destroyed

1. the Original Walter Reed FY 2013 FOIA Processing Log as it existed when submitted as Walter Reed's FY 2013 Annual FOIA report, *purportedly* to Navy, Navy BUMED (page count unknown by me);
2. the forwarding correspondence to the Walter Reed FY 2013 FOIA Processing Log sent to Department of Navy (*presumed* to be an email from Bizzell with potentially multiple copy-to addressees (such as BUMED's Della Garcia and Navy's DONFOIA PA office personnel (e.g., Robin Patterson)) and containing Walter Reed's FY 2013 FOIA Processing Log as a PDF attachment);
3. the forwarding correspondence to the Walter Reed FY 2013 FOIA Processing Log potentially **also** sent to DHA (likely Nadine Brown) in addition to Navy (*presumed* to be an email from Bizzell with potentially multiple copy-to addressees and containing Walter Reed's FY 2013 FOIA Processing Log as an attachment);
4. the Walter Reed FY 2013 FOIA Processing Log as it existed at the time of my April 1, 2014 FOIA Request (*purportedly* the Original);
5. the Walter Reed FY 2013 FOIA Processing Log as it existed when DHA's Cygnarowicz reviewed my September 15, 2014 administrative appeal and upheld the Agency's unlawful withholding under Exemption 5.
6. the 17 page Vaughn Index Walter Reed FY 2013 FOIA Processing Log cited by Accused Parties (who later removed their claim of withholding the record under Exemption 5, clearing its release (with only *fifteen* exemption (b)(6) redactions)).

Background.

1. On or about April 1, 2014, I submitted a FOIA request to the Department of Navy BUMED seeking all records and raw data of the Fiscal Year ("FY") 2013 Annual FOIA Report submissions for Walter Reed as received by BUMED. See Dkt. No. 1, Complaint Ex. 3, at 20, 21.
2. My FOIA request also seeks the forwarding correspondence of Walter Reed's FY 2013 Annual FOIA Report Submission, (*presumably* sent by email from Walter Reed's FOIA Officer (Bizzell) to BUMED [and to OPNAV DNS-36, DONFIA-PA Office personnel] with the FY 2013 FOIA Processing Log as a PDF attachment).
3. On or about April 15, 2014 Navy BUMED referred my FOIA Request to Walter Reed. All the while, BUMED was getting quarterly statistical FOIA reports from Walter Reed, which were sent to DONFOIA-PA; Patterson, Robin L CIV OPNAV DNS 36 with copies to Garcia, Della W. GS BUMED. See Dkt. No. 1, Complaint Ex. 3, at 18, 20, 21; Dkt.24-12, Ex B-11 at 3.
4. On May 27, 2014, I appealed to DHA's Appellate Authority, Cygnarowicz, that Walter Reed had not answered my FOIA request at all, and then on September 29, 2014, I appealed Walter Reed's subsequent unlawful claim of Exemption (b)(5) in withholding the record, (which is required by the FOIA statute and 2016 FOIA Improvement Act to be released to the Public!).
5. On December 8, 2014, DHA's Agency Counsel Paul T. Cygnarowicz denied my administrative appeal for these records under Exemption 5^[6], and, therefore, had the actual Walter Reed FY 2013 FOIA processing log that Bizzell alleges that she sent to Navy BUMED as Walter Reed's FY 2013 Annual FOIA Report submission.
6. During litigation, by email (on Jun 28, 2016 at 11:43 PM), DOJ Lead Counsel (Braswell) sent my attorney the Accused Parties' **Vaughn Index** citing a 17-page Walter Reed FOIA Processing Log responsive to my April 1, 2014 FOIA request as being withheld under Exemption 5 (as originally claimed, but then also citing Exemption 6 for certain portions, falsely alleged to be only the names of FOIA requesters seeking medical records).

- 7 The Proposed Vaughn Index is alleged to have been prepared by Agency Counsel Paul T Cygnarowicz, and he allegedly possess or possessed that 17-page FY 2013 Walter Reed FOIA Processing Log cited in the Vaughn Index, as does Bizzell
8. Walter Reed's FY 2013 FOIA Processing Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index is static. A **true copy** of that record has allegedly not been released and may have been or may about to be destroyed.
- 9 Walter Reed's FY 2013 FOIA Processing Log, as sent to and received by BUMED/ became a finalized report (PDF) when submitted. It is **static**. (As a data point to the approximate time the Log was sent, in 2012 Walter Reed's Bizzell sent Walter Reed's similar FY 2103 FOIA processing Log to Navy, Navy BUMED via email with attached PDF on October 1, 2013, one day after the close of the FY)
10. A **true** copy of Walter Reed's, unaltered, static FY 2013 FOIA Processing Log, as sent to and received by BUMED has incontrovertibly and verifiably not ever been released. It is presumed destroyed or in imminent danger of being destroyed.
- 11 During litigation (citing my April 1, 2014 FOIA Request to Navy BUMED seeking all records of the FY 2013 Annual FOIA Report Submission for Walter Reed, Dkt. No. 12, Amended Complaint ¶ 56), Accused Parties removed their claim of withholding the Original FY 2013 Log cited as Walter Reed's FY 2013 Annual Report to BUMED ("WRNMMC FOIA Office will no longer withhold from plaintiff [me] the FY 2013 FOIA Report Submission for Walter Reed")
12. By memo dated March 9, 2017, Bizzell then released a materially-altered 16-page Walter Reed FOIA Processing Log (with redactions for *fifty three* cases, citing Exemption 6 and citing Exemption 7). **See Attachment A, 16-Page Log with Dated Material Alterations.** Bizzell concurrently provided that same record to then DOJ Lead Counsel, Marina Braswell, claiming that it is the Log that Walter Reed sent as its FY 2013 Annual FOIA Report submission to BUMED/OPNAV "*The FY13 FOIA Log is the only relevant "raw data" record of numbers the WRNMMC FOIA Office sent to BUMED for inclusion into the Congressional Report. See Dkt. No 26 1; see also Third Bizzell Decl Section A ¶ 11, 17; Dkt Dkt No 26, Supplemental Motion for Summary Judgement, at 6, 8; Dkt. No. 24-12, Ex. B-11, at 1 ¶ 1.c. (report sent to BUMED). [available at Pacer gov]*
13. All the while, Bizzell, DOJ Lead Counsel (Braswell) and DHA's Agency Counsel (Paul Cygnarowicz) were purportedly in possession of the different 17 page Walter Reed FY 2013 FOIA Processing Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index (and evidently also Walter Reed's Original, unaltered FY 2013 Log in the case of Bizzell and Cygnarowicz)
14. On May 27, 2017, Bizzell then stated that she had removed her unlawful claim of Exemption (b)(7) entirely for Walter Reed's FY 2013 FOIA Processing Log as sent to/received by Navy BUMED/DONFOIA-PA and had reduced Exemption (b)(6) redactions from *fifty-three* cases to *fifteen* cases. Bizzell Third Decl., page 5. Footnote 2.^[7]
15. Accused Parties did not then release any Walter Reed FY 2013 FOIA Processing Log with Exemption (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases, as promised (after withdrawing their withholding under Exemptions (b)(5) and (b)(7). *See Third Bizzell Decl. ¶ 9, footnote 2.*
16. Then, on July 14, 2017, Judge Jackson ordered Accused Parties and me to appear on July 25, 2017 regarding records that Accused Parties falsely stated had been released but which had not released. Such records included Walter Reed's FY 2013 FOIA Processing Log, as sent to and received by BUMED/DONFOIA-PA with (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases. *See Dkt. No 27; see also Dkt. No. 28 and Order of 7/14/2017.*
17. On July 24, 2017 at 5:01 PM, just before that appearance, DOJ's Lead Counsel sent my Counsel a version of Walter Reed's FY 2013 FOIA Processing Log with content and blank rows or lines that is identical to the 16-page materially-altered March 9, 2016 Bizzell memo Log (*with none of the fifty-three redactions reduced*), with the only difference being that it is 17 pages, making it appear to be the 17-page Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index. Though Accused Parties purport it to be, this 17-page Log, by virtue of its identical dated material-alterations alone cannot possibly be Walter Reed's FY 2013 FOIA Processing Log as sent to and received by Navy BUMED as Walter Reed's Annual FOIA Report submission/raw data. With dated alterations 364

days after the close of FY 2013, it is not a log provided to anyone as Walter Reed's FY 2013 FOIA report submission.

18. In Court proceedings on 7/25/2017, DOJ Lead Counsel (accompanied DHA's Agency Counsel Paul Cygnarowicz) admitted that identical dated alterations had been made to **both** the 16-page March 9, 2016 Bizzell memo Log and the 17-page Log released the night of 7/24/2017 and that neither was Walter Reed's FY 2013 FOIA Processing Log as sent to and received by Navy BUMED as Walter Reed's Annual FOIA Report submission/raw data.
19. DOJ's Lead Counsel (supported by DHA's Agency Counsel Paul Cygnarowicz) further admitted in Court proceedings on 7/25/2017, (apart from the incontrovertible dated alterations), that Bizzell altered the Original Walter Reed FOIA Processing Log from 17-pages during litigation to produce the 16-page Log accompanying her Memo dated March 9, 2017.
20. **Again, after being caught, Bizzell admitted in her sworn declaration to altering during litigation** the (alleged) Original Walter Reed FOIA Processing Log from 17-pages to produce the 16-page Log accompanying her Memo dated March 9, 2017 and contends that the only difference to the Original Log, which has never been released is, (unbelievably): "The loss of a page was the result of **reformatting the font size to improve the FY13 FOIA Log's appearance.**" See Dkt. No. 26-1, Third Bizzell Decl. ¶ 8, sentence 8 and ¶ 7, sentence 4 (admissions of alterations).^[8]
21. In as much as Accused Parties have never released Walter Reed's **true**, unaltered, static FY 2013 FOIA Processing Log, as sent to and received by BUMED, I do not know the true page count of that record, whether it be 16-pages, 17-pages, or some other number.
22. I challenged that Bizzell had not produced a promised FY 2013 Log with redactions reduced from *fifty-three* exemption (b)(6) redactions to *fifteen* (as stated in her sworn declaration), and I opined (and Cygnarowicz is aware of this) that to do so Bizzell would have to: (a) again alter the 17-page version or the 16-page version already in evidence with dated alterations; or, (b) produce the actual, Original, unaltered Log that she states she submitted as Walter Reed's FY 2013 Annual FOIA report to Navy, Navy BUMED without those dated alterations and make the reduced *fifteen* redactions to that Original unaltered Log.
23. Accused Parties then did not subsequently release any Walter Reed FY 2013 FOIA Processing Log with Exemption (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases, as promised (after withdrawing their withholding under Exemptions (b)(5) and (b)(7)). See Third Bizzell Decla., ¶ 9, footnote 2.
24. Shortly thereafter, by coincidence or otherwise, DOJ's Lead Counsel (Marina Braswell) (who had submitted records into evidence under her signature) withdrew from the case.

IV. APPLICABLE RETENTION SCHEDULE, NARA GRS 4.2 Item 20

020	<p>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:</p> <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 	<p>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.</p>	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 § 1230.3

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](#).)

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

With my respect,

/s/

Robert Hammond

January 31, 2021

Whistleblower

Attachments:

- A. 16-Page Log with Dated Material Alterations
- B. 17-Page Log with Dated Material Alterations

[1] A Vaughn Index is a document prepared by agencies that are opposing the disclosure of information under FOIA. The index must describe each document (or portion of each document) that has been withheld and provide a detailed justification of the agency's grounds for non-disclosure (i.e., the FOIA exemption relied upon must be stated). The term originates from the case of Vaughn v. Rosen [1]

Vaughn Indices are intended to permit a court "to make a rational decision [about] whether the withheld material must be produced without actually viewing the documents themselves." [2]

[2] Regardless of conflicting claims as to the records and to whom Bizzell may have given copies at some points in time, including during litigation. They are all federal records.

[3] Bizzell subsequently re-released the same materially-altered 17-page Log, stating only that it was a Log that she had previously released and had apparently given to DHA at some point in time.

[4] In the materially-altered Logs, there is a blank row at page 9 between the entries for requests 13-27 and 13-29 and there is no entry for request 13-28. There is a blank row at page 18 between requests 13-67 and 13-68. It appears that content of some sort was removed with respect to the Vaughn Index Log and potentially the Original Log purportedly submitted to Navy.

[5] In contradiction to Bizzell's statement regarding no alterations other than a font size change, Accused Parties state in their Response that there was at least one other alteration "removal of an empty line to correct a numbering and spacing problem," See Dkt. No. 25-1 ¶¶ 54, 55. Bizzell did not state this. Bizzell stated under oath, "The loss of a page was the result of **reformatting the font size to improve the FY13 FOIA Log's appearance.**" Accused Parties have not released any such Log with a difference in the number of rows or "lines" from the 16-page Log to the 17-page Log due to a blank space. Cygnarowicz is evidently involved in entering known altered documents into evidence, while evidently possessing a copy of the unaltered record(s).

[6] There is no deliberative process in purely statistical reports and the information was antecedent when I sought this information, having already been incorporated into final reports. The FOIA Improvement Act of 2016 requires that Agencies proactively disclose the raw data used in compiling their reports.

Accused Parties have also not released the forwarding correspondence of Walter Reed's FY 2013 Annual FOIA Report Submission.

Accused Parties have also not released Walter Reed's 2nd, 3rd, and 4th Quarterly FOIA Reports submissions to BUMED/OPNAV, providing contemporaneous statistical data.

DOJ ordered these quarterly FOIA Reports a following a GAO audit of significant deficiencies in DOD's FOIA practices, including (among others): deficiencies in assignment of tracking numbers; reporting to DOJ; over-use of Exemptions (b)(5) and (b)(6); and other matters. See GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act at <http://www.gao.gov/products/GAO-12-828>.

[7] "Exemption (b) (6) was applied on the previously released FY13 FOIA Log to fifty-three requests for information. Having reviewed the FY13 FOIA Log again, I reduced Exemption (b) (6) redactions to only fifteen cases, those

which are requests for medical records, and, in an abundance of caution, those appearing to involve a request for medical records."

[8] While any alteration is a violation of law, a careful examination of both the 17-page Log and the 16-page log with respect to the text wrapping within each cell indicates that the difference is not as Bizzell states under oath as due to a font size change, but rather simply changing the page margins during printing after being caught. Also compare page margins. I believe that alterations from the Original Log are due to deletions of content and/or entire rows/lines. NARA

should be wary of any records produced by Accused Parties and potential further false claims made about them. Further, the Original Log should not have any alterations after September 30, 2013, which is the close of FY 2013.

2 attachments



NARA Complaint. Alteration & Destruciton of Records ICO Walter Reed FY 2013 FOIA Report w. attach.pdf
2401K



NARA Complaint. Alteration & Destruciton of Records ICO Walter Reed FY 2013 FOIA Report.docx
53K

NARA Complaint. Alteration & Destruction of Records
ICO Walter Reed's FY 2013 FOIA Report

I. ALLEGATION.

I am alleging that:

1. The Walter Reed National Military Medical Center (“Walter Reed” or “WRNMMC”) FOIA Officer, **Judy J. Bizzell**, and/or others, materially altered multiple times & multiple copies of a document sought under FOIA and other subsequent federal record litigation evidentiary versions both prior to and **ADMITTEDLY** during litigation, and Defense Health Agency (“DHA”) **Agency Counsel Paul T. Cygnarowicz** allegedly had knowledge of those alterations, but nevertheless entered altered documents (which are also official records) into evidence, participating in such alleged malfeasance.
2. Original records and official federal record litigation evidentiary copies may have been destroyed or may be in imminent danger of being destroyed.

Federal entities (a) Walter Reed and (b) DHA, and no other entities, and employees (1) Bizzell and (2) Cygnarowicz are “Accused Parties” for the purpose of this narrow complaint (not to be combined with any other complaint). While Walter Reed is currently a subordinate entity of DHA, they each have their own accountable records officers/managers.

Given that multiple of the named Accused Parties purportedly possessed copies of subject records during litigation, each record copy is therefore its own evidentiary federal record and must be accounted for and addressed as to alterations.

Walter Reed and DHA have made multiple materially false and conflicting statements and inaccurate submissions to the Court regarding these records, heightening the likelihood of ongoing and/or further records destruction. Absent NARA’s intervention, there is a high likelihood that records that have not already been destroyed will imminently be destroyed by Accused Parties. *“Oh what a tangled web we weave when first we practice to deceive.”*

Only the actual production to NARA of each cited record by each Accused Party will suffice as proof that each record has not been destroyed.

As to citations in this complaint to District Court of Colombia in Civil Action No. 16-421 (KBJ) documents, Accused Parties hold those records, and they are also available from Pacert.gov.

II. ACTION SOUGHT.

1. Notify: (1) DHA and (2) 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. Promptly affirm the uncontroverted and admitted alteration of records. State in your findings exactly which record copies were altered (e.g., Original FY 2013 Walter Reed FOIA Processing Log as it existed at the time it was submitted as Walter Reed's FY 2013 Annual report, allegedly to Navy, Navy BUMED), who made each alteration, and when each alteration was made.
5. Affirm that DHA Agency Counsel Cygnarowicz was aware of material alterations, but nevertheless entered altered documents into evidence thru DOJ counsels. Cygnarowicz has stated that he reviewed DOJ documents prior to submission to the Court, and record evidence appears to document that he was fully aware of the alterations prior to doing so (and may have communicated with Bizzell regarding same). He is also believed to have prepared DHA's Vaughn Index¹ citing a 17-page Log prior to the materially-altered 16-page Log being released by Bizzell (as discussed below). Any participation in placing known altered documents into Court records must be documented. There is no Attorney-Client privilege or shield regarding such participation in alleged malfeasance.
6. If any records have not been destroyed, seek that each Accused Party provide to you each specifically enumerated record/record set in their possession, identifying by name who held the record, along with a record count and page number count for each record to prove their existence. Absent the Accused Parties producing each specifically enumerated record/record set for your verification to prove their existence, NARA will likely be misled. 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.

The records in question are the Original record of Walter Reed's FY 2013 FOIA processing log that I sought via FOIA on or about April 1, 2014 that Bizzell alleges that she sent to Navy, Navy/BUMED as Walter Reed's FY 2013 Annual FOIA Report Submission (along with the forwarding correspondence thereto) and other subsequent federal record evidentiary versions of that same Original record.² See below.

Alterations. Accused Parties Individually and/or Collectively, et. al:

1. First, Bizzell **altered both** a 16-page version and a 17-page version of the alleged Original record to produce two altered records during court proceedings with identical, multiple dated alterations (in the "Comment" column) after my April 1, 2014 FOIA request, after my May 27, 2014 and subsequent September 15, 2014 administrative appeals, and nearly a full year after the close of FY 2013 on September 30, 2013. Even

¹ A Vaughn Index is a document prepared by agencies that are opposing the disclosure of information under FOIA. The index must describe each document (or portion of each document) that has been withheld and provide a detailed justification of the agency's grounds for non-disclosure (i.e., the FOIA exemption relied upon must be stated). The term originates from the case of Vaughn v. Rosen [\[1\]](#)

Vaughn Indices are intended to permit a court "to make a rational decision [about] whether the withheld material must be produced without actually viewing the documents themselves." [\[2\]](#)

² Regardless of conflicting claims as to the records and to whom Bizzell may have given copies at some points in time, including during litigation. They are all federal records.

these incontrovertible alterations of the Original record may have occurred during litigation, which began on March 3, 2016.

2. Second, Bizzell **also admits to altering, during litigation**, a 17-page Log (cited in a Vaughn Index or the Original, unaltered Log, if different) to produce the 16-page Log cited above. Note, the page count of the Original, unaltered record (a **true** copy of which has never been produced) is unknown by me, such that it is not clear which Log was altered to produce the materially-altered 16-page Log.

I challenged that Bizzell had not produced a promised FY 2013 Log with redactions reduced from *fifty-three* exemption (b)(6) redactions to *fifteen* (as stated in her sworn declaration), and I opined (and Cygnarowicz is aware of this) that to do so Bizzell would have to: (a) again alter the 17-page version or the 16-page version already in evidence with dated alterations; or, (b) produce the actual, Original, unaltered Log that she states she submitted as Walter Reed's FY 2013 Annual FOIA report to Navy, Navy BUMED without those dated alterations and make the reduced *fifteen* redactions to that Original unaltered Log. Bizzell and Accused Parties then refused to release any Log with redactions reduced to *fifteen*. Shortly thereafter, by coincidence or otherwise, DOJ's Lead Counsel (Marina Braswell) (who had submitted records into evidence under her signature) withdrew from the case.³

Bizzell first released a materially-altered 16-page version of the alleged Original Log (and that version contained dated alterations such that it cannot be the Original Log), and then she released a 17-page version of that very same 16-page log containing the same dated alterations.

Both records produced contain identical multiple dated alterations in the "Comment" column after my April 1, 2014 FOIA request, after my May 27, 2014 and subsequent September 15, 2014 administrative appeals to DHA's Cygnarowicz, and nearly a full year after the close of FY 2013 on September 30, 2013. Neither, therefore, can be the Original Log. *See* Attachment A, 16-Page Log with Dated Material Alterations and Attachment B, 17-Page Log with Dated Material Alterations. For example, see identical comments to Walter Reed's FY 2013 FOIA Log case 13-53 and case 13-56 (involving my own (Robert Hammond) 2013 FOIA requests) with alterations dated **September 29, 2014**, stating, "*No further actions requested after litigation – No response given to requester. CLOSED –9/29/2014.*" Not only is September 29, 2014 after my May 27, 2014 and subsequent September 15, 2014 administrative appeals to DHA's Cygnarowicz, the instant "litigation" was not filed until two years later on April 3, 2016, raising questions as to when the alterations above citing "*after litigation*" were made. See below:

³ Bizzell subsequently re-released the same materially-altered 17-page Log, stating only that it was a Log that she had previously released and had apparently given to DHA at some point in time.

13-53 and case 13-56:

“No further actions requested after litigation – No response given to requester.

CLOSED – 9/29/2014”

Dated Alteration (numerous)

AFTER the close of FY 2013 on September 30, 2013, AFTER my April 1, 2014 FOIA request and AFTER my May 24, 2014 and subsequent September 15, 2014 administrative appeals to Agency Counsel Cygnarowicz.

Both Logs also have evident alterations, deletions within rows/and or deletions of entire rows.⁴

Bizzell admits under oath to altering the original FY 2013 FOIA processing log to produce a 16-page Log that differed from the 17- page Log cited in Defendant’s Vaughn Index, although her account and that of Agency counsel(s) are at odds as to the extent of the alterations.⁵

Destruction of Records. Accused Parties Individually and/or Collectively, et. al

Bizzell and Agency Counsel Cygnarowicz, et al., may have also unlawfully destroyed the following 6 specific records (which have never been produced in court); or they may be in imminent danger of being destroyed:

1. the Original Walter Reed FY 2013 FOIA Processing Log as it existed when submitted as Walter Reed’s FY 2013 Annual FOIA report, *purportedly* to Navy, Navy BUMED (page count unknown by me);
2. the forwarding correspondence to the Walter Reed FY 2013 FOIA Processing Log sent to Department of Navy (*presumed* to be an email from Bizzell with potentially multiple copy-to addressees (such as BUMED’s Della Garcia and Navy’s DONFOIA-PA office personnel (e.g., Robin Patterson)) and containing Walter Reed’s FY 2013 FOIA Processing Log as a PDF attachment);
3. the forwarding correspondence to the Walter Reed FY 2013 FOIA Processing Log potentially **also** sent to DHA (likely Nadine Brown) in addition to Navy (*presumed* to be an email from Bizzell with potentially multiple copy-to addressees and containing Walter Reed’s FY 2013 FOIA Processing Log as an attachment);

⁴ In the materially-altered Logs, there is a blank row at page 9 between the entries for requests 13-27 and 13-29 and there is no entry for request 13-28. There is a blank row at page 18 between requests 13-67 and 13-68. It appears that content of some sort was removed with respect to the Vaughn Index Log and potentially the Original Log purportedly submitted to Navy.

⁵ In contradiction to Bizzell’s statement regarding no alterations other than a font size change, Accused Parties state in their Response that there was at least one other alteration “removal of an empty line to correct a numbering and spacing problem,” See Dkt. No. 25-1 ¶¶ 54, 55. Bizzell did not state this. Bizzell stated under oath, “The loss of a page was the result of **reformatting the font size to improve the FY13 FOIA Log’s appearance.**” Accused Parties have not released any such Log with a difference in the number of rows or “lines” from the 16-page Log to the 17- page Log due to a blank space. Cygnarowicz is evidently involved in entering known altered documents into evidence, while evidently possessing a copy of the unaltered record(s).

4. the Walter Reed FY 2013 FOIA Processing Log as it existed at the time of my April 1, 2014 FOIA Request (*purportedly* the Original);
5. the Walter Reed FY 2013 FOIA Processing Log as it existed when DHA's Cygnarowicz reviewed my September 15, 2014 administrative appeal and upheld the Agency's unlawful withholding under Exemption 5.
6. the 17-page Vaughn Index Walter Reed FY 2013 FOIA Processing Log cited by Accused Parties (who later removed their claim of withholding the record under Exemption 5, clearing its release (with only *fifteen* exemption (b)(6) redactions)).

Background.

1. On or about April 1, 2014, I submitted a FOIA request to the Department of Navy BUMED seeking all records and raw data of the Fiscal Year ("FY") 2013 Annual FOIA Report submissions for Walter Reed as received by BUMED. See Dkt. No. 1, Complaint Ex. 3, at 20, 21.
2. My FOIA request also seeks the forwarding correspondence of Walter Reed's FY 2013 Annual FOIA Report Submission, (*presumably* sent by email from Walter Reed's FOIA Officer (Bizzell) to BUMED [and to OPNAV DNS-36, DONFIA-PA Office personnel] with the FY 2013 FOIA Processing Log as a PDF attachment).
3. On or about April 15, 2014 Navy BUMED referred my FOIA Request to Walter Reed. All the while, BUMED was getting quarterly statistical FOIA reports from Walter Reed, which were sent to DONFOIA-PA; Patterson, Robin L CIV OPNAV DNS 36 with copies to Garcia, Della W. GS BUMED. See Dkt. No. 1, Complaint Ex. 3, at 18, 20, 21; Dkt.24-12, Ex B-11 at 3.
4. On May 27, 2014, I appealed to DHA's Appellate Authority, Cygnarowicz, that Walter Reed had not answered my FOIA request at all, and then on September 29, 2014, I appealed Walter Reed's subsequent unlawful claim of Exemption (b)(5) in withholding the record, (which is required by the FOIA statute and 2016 FOIA Improvement Act to be released to the Public!).
5. On December 8, 2014, DHA's Agency Counsel Paul T. Cygnarowicz denied my administrative appeal for these records under Exemption 5⁶, and, therefore, had the actual Walter Reed FY 2013 FOIA processing log that Bizzell alleges that she sent to Navy BUMED as Walter Reed's FY 2013 Annual FOIA Report submission.
6. During litigation, by email (on Jun 28, 2016 at 11:43 PM), DOJ Lead Counsel (Braswell) sent my attorney the Accused Parties' **Vaughn Index** citing a 17-page Walter Reed

⁶ There is no deliberative process in purely statistical reports and the information was antecedent when I sought this information, having already been incorporated into final reports. The FOIA Improvement Act of 2016 requires that Agencies proactively disclose the raw data used in compiling their reports.

Accused Parties have also not released the forwarding correspondence of Walter Reed's FY 2013 Annual FOIA Report Submission.

Accused Parties have also not released Walter Reed's 2nd, 3rd, and 4th Quarterly FOIA Reports submissions to BUMED/OPNAV, providing contemporaneous statistical data.

DOJ ordered these quarterly FOIA Reports a following a GAO audit of significant deficiencies in DOD's FOIA practices, including (among others): deficiencies in assignment of tracking numbers; reporting to DOJ; over-use of Exemptions (b)(5) and (b)(6); and other matters. See GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act at <http://www.gao.gov/products/GAO-12-828>.

FOIA Processing Log responsive to my April 1, 2014 FOIA request as being withheld under Exemption 5 (as originally claimed, but then also citing Exemption 6 for certain portions, falsely alleged to be only the names of FOIA requesters seeking medical records).

7. The Proposed Vaughn Index is alleged to have been prepared by Agency Counsel Paul T. Cygnarowicz, and he allegedly possess or possessed that 17-page FY 2013 Walter Reed FOIA Processing Log cited in the Vaughn Index, as does Bizzell.
8. Walter Reed's FY 2013 FOIA Processing Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index is static. A **true copy** of that record has allegedly not been released and may have been or may about to be destroyed.
9. Walter Reed's FY 2013 FOIA Processing Log, as sent to and received by BUMED/ became a finalized report (PDF) when submitted. It is **static**. (As a data point to the approximate time the Log was sent, in 2012 Walter Reed's Bizzell sent Walter Reed's similar FY 2103 FOIA processing Log to Navy, Navy BUMED via email with attached PDF on October 1, 2013, one day after the close of the FY).
10. A **true** copy of Walter Reed's, unaltered, static FY 2013 FOIA Processing Log, as sent to and received by BUMED has incontrovertibly and verifiably not ever been released. It is presumed destroyed or in imminent danger of being destroyed.
11. During litigation (citing my April 1, 2014 FOIA Request to Navy BUMED seeking all records of the FY 2013 Annual FOIA Report Submission for Walter Reed, Dkt. No. 12, Amended Complaint ¶ 56), Accused Parties removed their claim of withholding the Original FY 2013 Log cited as Walter Reed's FY 2013 Annual Report to BUMED ("WRNMMC FOIA Office will no longer withhold from plaintiff [me] the FY 2013 FOIA Report Submission for Walter Reed.").
12. By memo dated March 9, 2017, Bizzell then released a materially-altered 16-page Walter Reed FOIA Processing Log (with redactions for *fifty-three* cases, citing Exemption 6 and citing Exemption 7). See Attachment A, 16-Page Log with Dated Material Alterations. Bizzell concurrently provided that same record to then DOJ Lead Counsel, Marina Braswell, claiming that it is the Log that Walter Reed sent as its FY 2013 Annual FOIA Report submission to BUMED/OPNAV. "*The FY13 FOIA Log is the only relevant "raw data" record of numbers the WRNMMC FOIA Office sent to BUMED for inclusion into the Congressional Report. See Dkt. No. 26-1; see also Third Bizzell Decl. Section A. ¶ 11, 17; Dkt. Dkt. No. 26, Supplemental Motion for Summary Judgement, at 6, 8; Dkt. No. 24-12, Ex. B-11, at 1 ¶ 1.c. (report sent to BUMED). [available at Pacer.gov]*
13. All the while, Bizzell, DOJ Lead Counsel (Braswell) and DHA's Agency Counsel (Paul Cygnarowicz) were purportedly in possession of the different 17-page Walter Reed FY 2013 FOIA Processing Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index (and evidently also Walter Reed's Original, unaltered FY 2013 Log in the case of Bizzell and Cygnarowicz).
14. On May 27, 2017, Bizzell then stated that she had removed her unlawful claim of Exemption (b)(7) entirely for Walter Reed's FY 2013 FOIA Processing Log as sent to/received by Navy BUMED/DONFOIA-PA and had reduced Exemption (b)(6) redactions from *fifty-three* cases to *fifteen* cases. Bizzell Third Decl., page 5. Footnote 2.⁷

⁷ "Exemption (b) (6) was applied on the previously released FY13 FOIA Log to fifty-three requests for information. Having reviewed the FY13 FOIA Log again, I reduced Exemption (b) (6) redactions to only fifteen cases, those

15. Accused Parties did not then release any Walter Reed FY 2013 FOIA Processing Log with Exemption (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases, as promised (after withdrawing their withholding under Exemptions (b)(5) and (b)(7)). See Third Bizzell Decl. ¶ 9, footnote 2.
16. Then, on July 14, 2017, Judge Jackson ordered Accused Parties and me to appear on July 25, 2017 regarding records that Accused Parties falsely stated had been released but which had not released. Such records included Walter Reed's FY 2013 FOIA Processing Log, as sent to and received by BUMED/DONFOIA-PA with (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases. See Dkt. No 27; see also Dkt. No. 28 and Order of 7/14/2017.
17. On July 24, 2017 at 5:01 PM, just before that appearance, DOJ's Lead Counsel sent my Counsel a version of Walter Reed's FY 2013 FOIA Processing Log with content and blank rows or lines that is identical to the 16-page materially-altered March 9, 2016 Bizzell memo Log (*with none of the fifty-three redactions reduced*), with the only difference being that it is 17 pages, making it appear to be the 17-page Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index. Though Accused Parties purport it to be, this 17-page Log, by virtue of its identical dated material-alterations alone cannot possibly be Walter Reed's FY 2013 FOIA Processing Log as sent to and received by Navy BUMED as Walter Reed's Annual FOIA Report submission/raw data. With dated alterations 364 days after the close of FY 2013, it is not a log provided to anyone as Walter Reed's FY 2013 FOIA report submission.
18. In Court proceedings on 7/25/2017, DOJ Lead Counsel (accompanied DHA's Agency Counsel Paul Cygnarowicz) admitted that identical dated alterations had been made to **both** the 16-page March 9, 2016 Bizzell memo Log and the 17-page Log released the night of 7/24/2017 and that neither was Walter Reed's FY 2013 FOIA Processing Log as sent to and received by Navy BUMED as Walter Reed's Annual FOIA Report submission/raw data.
19. DOJ's Lead Counsel (supported by DHA's Agency Counsel Paul Cygnarowicz) further admitted in Court proceedings on 7/25/2017, (apart from the incontrovertible dated alterations), that Bizzell altered the Original Walter Reed FOIA Processing Log from 17-pages during litigation to produce the 16-page Log accompanying her Memo dated March 9, 2017.
20. **Again, after being caught, Bizzell admitted in her sworn declaration to altering during litigation** the (alleged) Original Walter Reed FOIA Processing Log from 17-pages to produce the 16-page Log accompanying her Memo dated March 9, 2017 and contends that the only difference to the Original Log, which has never been released is, (unbelievably): "The loss of a page was the result of **reformatting the font size to improve the FY13 FOIA Log's appearance.**" See Dkt. No. 26-1, Third Bizzell Decl. ¶ 8, sentence 8 and ¶ 7, sentence 4 (admissions of alterations).⁸

which are requests for medical records, and, in an abundance of caution, those appearing to involve a request for medical records."

⁸ While any alteration is a violation of law, a careful examination of both the 17-page Log and the 16-page log with respect to the text wrapping within each cell indicates that the difference is not as Bizzell states under oath as due to a font size change, but rather simply changing the page margins during printing after being caught. Also compare page margins. I believe that alterations from the Original Log are due to deletions of content and/or entire rows/lines. NARA should be wary of any records produced by Accused Parties and potential further false claims

21. In as much as Accused Parties have never released Walter Reed’s **true**, unaltered, static FY 2013 FOIA Processing Log, as sent to and received by BUMED, I do not know the true page count of that record, whether it be 16-pages, 17-pages, or some other number.
22. I challenged that Bizzell had not produced a promised FY 2013 Log with redactions reduced from *fifty-three* exemption (b)(6) redactions to *fifteen* (as stated in her sworn declaration), and I opined (and Cygnarowicz is aware of this) that to do so Bizzell would have to: (a) again alter the 17-page version or the 16-page version already in evidence with dated alterations; or, (b) produce the actual, Original, unaltered Log that she states she submitted as Walter Reed’s FY 2013 Annual FOIA report to Navy, Navy BUMED without those dated alterations and make the reduced *fifteen* redactions to that Original unaltered Log.
23. Accused Parties then did not subsequently release any Walter Reed FY 2013 FOIA Processing Log with Exemption (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases, as promised (after withdrawing their withholding under Exemptions (b)(5) and (b)(7). *See* Third Bizzell Decla., ¶ 9, footnote 2.
24. Shortly thereafter, by coincidence or otherwise, DOJ’s Lead Counsel (Marina Braswell) (who had submitted records into evidence under her signature) withdrew from the case.

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

made about them. Further, the Original Log should not have any alterations after September 30, 2013, which is the close of FY 2013.

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 § 1230.3

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](#).)

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

With my respect,

/s/

Robert Hammond

Whistleblower

Attachments:

- A. 16-Page Log with Dated Material Alterations
- B. 17-Page Log with Dated Material Alterations

January 31, 2021

NARA Complaint, Attachment A

Materially-Altered 16-Page
Bizzell March 9, 2017
Walter Reed FY 13 FOIA Processing Log

Based on dated alterations alone this cannot be a true copy of Walter Reed's FY 2013 FOIA Processing Log
sent to Navy, Navy/BUMED as Walter Reed's FY 2013 Annual FOIA Report Submission

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
13-01	10/18/12	Lexis/Nexis (on behalf of B6)	Traffic Accident Report	Security - Mr. B6	10/23/12		10/23/12	11/14/12	CLOSED 11/14/2012	(b)(6)
13-02	10/18/12	Lexis/Nexis (on behalf of B6)	Traffic Accident Report	Legal	10/23/12		10/23/12	11/14/12	Legal Admin hand-carried request along with responsive docs to this office. I reviewed, made redactions and returned to Legal for final review and release recommendation. CLOSED 11/14/2012	(b)(6)
13-03	11/5/12	Roger Myerberg (on behalf of B6)	Documents to inspection/eval/test/analy /of 23mm Medtronic Bioprosthetic valve	Contracting Cardiology/ Cardiac Cath. Clinic	11/05/12 11/14/12			11/15/12	CLOSED 12/18/2012	
13-04	11/7/12	B6	Received from DON - Redacted 1 page doc	JAG	11/7/12	11/19/12	N/A	11/19/12	Closed 11/20/2012 Documents given to B6 to mail to requester	(b)(6)

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
13-05	11/15/12	[REDACTED] B6	Names of companies awarded staffing contracts for nurses and various physicians	Health Care Service	11/19/12	11/30/12	11/19/12	12/4/12	Closed 12/4/2012 Info e-mailed to requester.	N/A
13-06	11/19/12	[REDACTED] B6	Copy of NCIS report into death of [REDACTED] B6	N/A					Not a proper FOIA. Requester identifies herself to be the "wife" on the request, however shows no identity to verify. Requester notified 1/14/13. CLOSED 3/5/13 - No response from requester	
13-07	11/19/2012	[REDACTED] B6	Copy of Contract #N4008011 - F0475	Health Care Service/ Contracting				12/11/2012	Case transferred to Pax River. CLOSED 12 11/2012 Final e-mails with Pax River - 2/4/2013	
13-08	11/20/2012	[REDACTED] B6 (Jacob Gardner Office Supplies)	Names of Credit Card Holders	Contracting					CLOSED 5/28/13	B6

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

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13-09	12/3/2012	Social Security Amin on behalf of [REDACTED] B6	Medical and Psychic Records. Second request. First request went to Med Records in October	Medical Records					Medical Records will respond directly to the requester CLOSED 1/14/2013	
13-10	12/4/2012	[REDACTED] B6	EO Complaint	EO/JAG				3/4/13	Partial Release of Information CLOSED 3/4/2013	B-5; B-6
13-11	12/17/2012	[REDACTED] B6	Psychiatry Records	Psychiatry					CLOSED 7/1/2013	B-6 redaction for pseudo names
13-12	1/24/2013	[REDACTED] B6	Full Contract and amendments for contract # N00168-08-P-1372	Contracting					CLOSED 1/28/13 - requested info e-mailed to requester	B4 & B6
13-13	1/30/2013	[REDACTED] B6 (on behalf of [REDACTED] B6 - minor)	Copy of any subsequent report of [REDACTED] B6 /B7 Pediatrician and reports from Radiologist	[REDACTED] B6 Radiology					2/1/13- contacted [REDACTED] B6 regarding request. [REDACTED] B6 called back. He will contact requester and let me know. See enclosed e-mail. CLOSED 3/20/13	NO RECORD

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
13-14	2/6/2013 Hand delivered by B6	Lexis Nexis (on behalf of B6)	Accident Report	N/A	N/A	N/A	2/6/2013 - via tele	2/6/2013 - via tele	Request dated 2/6/13. Called to see if Lexis Nexis still needed info. Was informed they did not. See statement in record. CLOSED - 2/6/2013	
13-15	2/6/2013 Hand delivered by B6		Full Operative Report from 27 June 2011 surgery	Records - Denson Healthcare - Moidel	2/6/2013	2/14/2013	2/6/2013		CLOSED 3/13/13	RELEASED IN FULL
13-16	2/6/2013 Hand delivered by B6	B6	Purchases of Kimberly-Clark Corporation from 2008 to present	Contracting	2/6/2013	2/14/2013	2/6/2013	4/11/2013	Redacted copies mailed to requester CLOSED 4/11/2013	(b)(5) & (b)(6)
13-17	2/6/2013 Hand delivered by B6	Goodman, Allen & Filetti (on behalf of B6)	Copy of in/out Patient Records	Records	2/7/2013	2/19/2013			CLOSED 7/8/2013	Full Release
13-18	2/6/2013 Hand delivered by B6	Dept Vet Affairs-New Orleans (Reference - B6)	Treatment records, hospital summaries, findings and/or diagnosis for Heart Problem - 7/1/87 - 1/1/88	Records	2/7/2013	2/19/2013			CLOSED 7/8/2013	No Record

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
13-19	2/7/2013	B6	Number of breast cancer surgeries performed monthly	Patient Relations					CLOSED 3/20/2013	Full Disclosure
13-20	2/26/2013	B6	Emails, Phone Calls, Letters, or other records "regarding" B6 B7, and WRNMMC, NCIS, NRO(SSFA), Portsmouth Naval Hospital and NAVCONBRIG Chesapeake.	N/A	N/A	N/A	2/5/2013		Initial response - Need to know not specified. CLOSED 6/11/2013 No response from requester	No response from Requester
13-21	3/13/2013	B6	12 month Purchase Card history	Contracting	3/20/2013	3/29/2013	3/20/2013			
13-22	3/20/2013	Robert Hammond	Lab Report/ Computer Printout - Value that would have existed in the computer between 12/23/ - 12/29/2013						Sent back to requester. Request unclear. Which Lab? or is report generated by IT? CLOSED 6/11/2013	Released all info in full

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES	
13-23	3/21/2013	B6 (CAPT, USN)	IG Investigation Report	IG and Investigating Officer	3/21/2013	3/29/2013	3/20/2013		Office of the Navy Inspector General took control of this request - see e-mails 4/9/ - 4/10/2013. I call B6 twice requesting official letter but she has not sent one. CLOSED 4/10/2013	Non- Official Transfer (ONIG just took the case).	
13-24	4/24/2013	B6	CHCS Report	Medical Records	4/23	4/30/2013	4/24/2013		CLOSED 5/28/13	Full Release	
13-25	4/11/2013	People for the Ethical Treatment of Animals (PETA) B6	2012-present records on the use of living and/or dead animals during training on Intuitive Surgical's da Vinci Surgical System	Walter Reed Army Institute of Research (WRAIR)	4/17/2013		N/A - Transferred to WRAIR - not a WRNMMC Case	4/17/2013	4/17/2013	4/17/2013	TRANSFER

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
13-26	4/24/2013	Robert Hammond	Medical records 12/2011 to 8/2012 AND in/out and emergency records from 2/21/2012 AND all records after 2/21/2012 AND copies of DD form 2870 submitted 2/21/2012 to 5/30/2012	Medical Records	4/30/2013	5/13/2013	4/30/2013		CLOSED 5/23/2013	Released all received info in FULL
13-27	4/25/2013	Calloway, LLC on behalf of [REDACTED] B6 for her sister [REDACTED] B6	EEO Settlement Case paid in Aug 2012. Want documentation.	EEO	4/30/2013	5/13/2013	4/30/2013	5/23/2013	CLOSED 5/23/2013 Transferred to NARMC - Ft Belvoir	
13-29	4/26/2013	[REDACTED] B6	Medical records - 1991 through 1995	Medical Records					CLOSED 5/28/13	No Record Requester is to contact NPRC for documents

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
13-30	4/30/2013	B6	All correspondence relevant to case of US -vs- [REDACTED] B6 from 28 Dec 2000 to 31 Jan 2002	NCIS				CLOSED 7/8/2013		(b)(6)
13-31	4/30/2013	Instrument Specialists, Inc	Evaluation, rating for each factor, and overall rating of ISI proposal AND WRNMMC Contract and total scope of work for contract # RFQ763072	Contracting	4/30/2013	5/20/2013	5/2/2013			
13-32	5/1/2013	Dept of Vet Affairs on behalf of [REDACTED] B6	Treatment records, hospital summaries, findings and/or diagnoses - Jun thru Jul 2005	Records	5/2/2013	5/8/2013	5/2/2013	5/8/2013	Short suspense - Special request from VA. PAD already responded. NO RECORD. CLOSED 5/8/2013	
13-33	Out of sequence 4/16/2013	FOIA GROUP - Attn: [REDACTED] B6	Copy of contract #N0016812F7642 (SOW, Mods, Co Name, end user name and CTOR name)	Contracting	4/16/2013	5/3/2013	5/8/2013		No response from dept by suspense date. 5/8/2013 second request for docs sent to dept. CLOSED 5/24/2013	(b)(6)

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
13-34	5/13/2013	B6	Documents regarding his pay	N/A	N/A	N/A	N/A	5/23/2013	NOT A PROPER FOIA CLOSED 5/23/2013	
13-35	5/28/2013	B6	NCIS Report	Armed Forces Center for Child Protection	6/13/2013 (B6)	N/A	6/13/2013	6/13/2013	Spoke with B6, B7 - Request is denied in full CLOSED 7/8/2013	(b)(6) and (b)(7)
13-36	5/24/2013	B6	1. communications /documents with or from DFAS 2. E-mail/etc regarding pay 3. Copy of DD Form 2654 sent to DFAS	Finance and Accounting Office	7/1/2013	7/11/2013	7/1/2013			
13-37	5/13/2013	B6	AHLTA report from 1 Dec 2011 through 20 Mar 2013	HIPPA/ Privacy Office	7/1/2013	7/1/2013	7/1/2013	7/1/2013	Received copy of requested items from HIPPA/Privacy Office. Redacted sponsor SSN only. CLOSED 7/1/2013	(b)(6)
13-38	7/3/2013	B6	Unclear request - Security Clearance??	N/A	N/A	N/A	7/11/2013	7/11/2013 - Via tele con w/requester	Requester is a Contractor. She will contact her HR and Security Admin here to resolve request. CLOSED 7/11/2013	N/A Request unclear.

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
13-39	6/25/2013	Robert Hammond	Lab Report/ Computer Printout - Value that would have existed in the computer between 12/23/ - 12/29/2013	Records/ FOIA	Ms. Denson and I emailed regarding this request. Info already sent to requester.		N/A	7/11/2013	Letter sent to requester 7/11/13. Asked and answered from case #13-22. CLOSED 7/18/2013	
13-40	6/25/2013	Robert Hammond	Radiology and Dermatology Record along with phone consults	Records/ FOIA	Ms. Denson and I emailed regarding this request. Info already sent to requester.		N/A	7/11/2013	Letter sent to requester 7/11/13. Asked and answered from case #13-22. CLOSED 7/18/2013	
13-41	6/25/2013	Robert Hammond	Copies of DD Form 2870's (3)	Records/ FOIA	Ms. Denson and I emailed regarding this request. Info already sent to requester.		N/A	7/11/2013	Letter sent to requester 7/11/13. Asked and answered from case #13-22. CLOSED 7/18/2013	
13-42	6/25/2013	B6	Copies of "all pertinent documents of case #B6/B7 .	FOIA	N/A	N/A	N/A	7/11/2013	Denial - No written/justified reason to know info in another file. CLOSED 7/18/2013	B-6 & B-7

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
13-43	6/25/2013	Robert Hammond	Name and other identifying information for the 1:1 Sitters assigned to him on Dec 25, 2011 at 2215.	FOIA Office	N/A	N/A	7/17/2013	7/17/2013	Not a proper FOIA - no will pay statement. Information not provided in record. We do not "create" records to answer requests. CLOSED 7/17/2013	
13-44	6/25/2013	Robert Hammond	Notes made by CAPT Curt Henry regarding hospital care from 24-26 Dec 2011	FOIA Office	N/A	N/A	7/17/2013	7/17/2013	Information not provided in record. We do not "create" records to answer requests. CLOSED 7/17/2013	B-6
13-45	6/25/2013	B6	Investigation documents for his daughter "B6"				7/23/2013		Awaiting response from requester CLOSED 9/25/2013	No response from requester
13-46	6/20/2013	B6	NCIS & JAG Investigation of the Death of B6	FOIA Office	N/A	N/A	7/23/2013		Awaiting response from requester CLOSED 9/25/2013	Certified Mail returned - "UNCLAIMED"
13-47	6/20/2013	B6	NCIS & JAG Investigation of the B6	FOIA Office	N/A	N/A	7/23/2013		Awaiting response from requester CLOSED - 9/19/2013	No response from requester

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
13-48	6/20/2013	[REDACTED] B6	NCIS & JAG Investigation of the Death of [REDACTED] B6	FOIA Office	N/A	N/A	7/23/2013		Awaiting response from requester CLOSED 9/25/2013	Certified Mail returned - "UNCLAIMED"
13-49	7/11/2013	Archauleta/ Alsaffar & Higginbothan on behalf of [REDACTED] B6	Employment status of Dr. [REDACTED] B6	H/R	1/17/2013	7/22/2013	7/17/2013		Requester also want to know if Dr is protected under the Federal Tort Claims Act CLOSED 7/22/2013	- No written letter from [REDACTED] B6 agreeing to have info forwarded to this law firm (b)(6)
13-50	7/11/2013	Archauleta/ Alsaffar & Higginbothan on behalf of [REDACTED] B6	Employment status of Drs. [REDACTED] B6 and [REDACTED]	H/R	1/17/2013	7/22/2013	7/17/2013		Requester also want to know if Dr is protected under the Federal Tort Claims Act CLOSED 7/22/2013	No written letter from [REDACTED] B6 agreeing to have info forwarded to this law firm (b)(6)
13-51		Joseph E. Schmitz, PLLC (on behalf of [REDACTED] B6)	Investigative Report and back-up documents	Legal						
13-52	8/27/2013	Joseph Schmitz, PLLC (on behalf of [REDACTED] B6)	MOU, Shared agreement or similar docs between USUHS & WRNMMCE relating to [REDACTED] B6	Contracting, Radiology, Legal	9/19/2013		8/27/2013			

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
13-53	8/12/2013	Robert ond,	Records describing SOP or treatment protocol for symptomatic acute Hyponatremia	Dept of Medicine	9/23/2013	9/27/2013	9/23/13	N//A – CASE HELD WITHOUT ACTION DUE TO LITIGATION	No further actions requested after litigation – No response given to requester. CLOSED – 9/29/2014	
13-54	8/16/2013	B6	Records of Refurbishment of the Autopsy room from 1966	Autopsy Room				10/7/2013	No Record. requester referred to National Archives CLOSED 10/7/2013	NO RECORD
13-55	8/23	Robert Hammond (processing held due to litigation) – informed to now process	ID of persons who accessed his laboratory records between 12/26/11 & 1/3/12	CHCS??	9/25/2013	10/18/2013		10/10/2013	Documents received from IT 10/9/2013 CLOSED 10/10/2013	Released in full
13-56	8/23	Robert Hammond (processing held due to litigation)	Numbers paged, text of those pages, ID of docs associated with each page & responses to pages on 12/26/2011 initiated by ANL 2LT Angela N. Leung	Telecom				N//A – CASE HELD WITHOUT ACTION DUE TO LITIGATION	No further actions requested after litigation – No response given to requester. CLOSED – 9/29/2014	

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13-57	9/9/13	B6	Service Contract of A.R.T Institute of Wash, Inc w/ WRNMMC along with number of people who reside in MD,VA or Washington who utilized IVF and ICSI, of the WRAMC Division of Reproductive Endocrinology and Infertility - 2000 to present	Contracting and/or Endocrinology						
13-58	9/9/13	B6	Terms of employment for B6 from 1/12 - 9/12	Behavioral Health Unit						
13-59	9/11	B6	medical records which may have been opened and read without authorization	N/A					Return to sender. Too broad. She must specify	Closed 9/15/ 2014 No Response From Requester
13-60	9/12	B6	Psych Records regarding Security Investigation.	Dept of Psychiatry	9/12/13	9/30/13		10/7/2013	DENIED - Per 10 USC 1102- Confidentiality of Records – Medical Quality Assurance Records. Section (a)	N/A

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									and Section (f) CLOSED 10/7/2013	
13-61	9/16/13	Dean Swartz, Esq (on behalf of [REDACTED] B6)	WRNMMC protocols for diagnosis and treatment of STEMI; providers & Supervisor for [REDACTED] B6 care while in ICE; Cath Lab results.	LEGAL - [REDACTED] B6	N/A	N/A	9/16/2013	9/16/2013	This request was sent directly to [REDACTED] B6 from Navy JAG Claim Unit in Norfolk, VA. I informed the requester that JAG would respond directly. See e-mail in folder CLOSED 9/16/2013	N/A
13-62	9/19/2013	[REDACTED] B6		IG	9/25/2013	10/9/2013	9/25/2013			
13-63	9/19/2013	Adelman, Sheff & Smith (on behalf of [REDACTED] B6)	Payroll/work attendance records from 8/26/11-3/30/12	Payroll	9/25/2013	10/9/2013	9/25/2013		CLOSED 9/15/2014 No response from Requester	
13-64	9/19/2013	LexisNexis (on behalf of [REDACTED] B6)	Military Police	Accident Report	9/25/2013	10/9/2013	9/25/2013			

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13-65	9/19/2013	LexisNexis (on behalf of B6)	Military Police	Accident Report	9/25/2013	10/9/2013	9/25/2013		CLOSED 9/30/2014	Closed per requester's
13-66	9/11/2013 Opened 9/23/2013	B6	Procedures and/or treatment guidelines for Calmare Scrambler Technology device	Pain Clinic					CLOSED 9/29/2014	RELEASED IN FULL (link to company which supplies product)
13-68	9/23/2013	B6	Command Investigation (QUANTICO)	JAG/ LEGAL Attn: B6	N/A	N/A	N/A	N/A	B6 called for Case Tracking Number ONLY. He says he is personally handling this case in the Legal office.	
13-69	9/26/2013	SA Nereida Matthew-Davis (on behalf of B6)	Investigation for employment	Psychiatry (B6)	9/26/2013	9/26/2013	9/23/2013 Having trouble finding respondent	9/26/2013.	Info sent to B6 B6 9/26/2013. She will respond directly to B6. CLOSED 9/26/2013	

NARA Complaint, Attachment B

Materially-Altered 17-Page
February 24, 2017
Walter Reed FY 13 FOIA Processing Log

Based on dated alterations alone this cannot be a true copy of Walter Reed's FY 2013 FOIA Processing Log sent to Navy, Navy/BUMED as Walter Reed's FY 2013 Annual FOIA Report Submission

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13-01	10/18/12	Lexis/Nexis (on behalf of [REDACTED] B6)	Traffic Accident Report	Security - Mr. [REDACTED] B6	10/23/12		10/23/12	11/14/12	CLOSED 11/14/2012	(b)(6)
13-02	10/18/12	Lexis/Nexis (on behalf of [REDACTED] B6)	Traffic Accident Report	Legal	10/23/12		10/23/12	11/14/12	Legal Admin hand-carried request along with responsive docs to this office. I reviewed, made redactions and returned to Legal for final review and release recommendation. CLOSED 11/14/2012	(b)(6)
13-03	11/5/12	Roger Myerberg (on behalf of [REDACTED] B6)	Documents to inspection/eval/test/analy /of 23mm Medtronic Bioprosthetic valve	Contracting Cardiology/ Cardiac Cath. Clinic	11/05/12 11/14/12			11/15/12	CLOSED 12/18/2012	
13-04	11/7/12	[REDACTED] B6	Received from DON - Redacted 1 page doc	JAG	11/7/12	11/19/12	N/A	11/19/12	Closed 11/20/2012 Documents given to [REDACTED] B6 to mail to requester	(b)(6)

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13-05	11/15/12	[REDACTED] B6	Names of companies awarded staffing contracts for nurses and various physicians	Health Care Service	11/19/12	11/30/12	11/19/12	12/4/12	Closed 12/4/2012 Info e-mailed to requester.	N/A
13-06	11/19/12	[REDACTED] B6	Copy of NCIS report into death of [REDACTED] [REDACTED] B6	N/A					Not a proper FOIA. Requester identifies herself to be the "wife" on the request, however shows no identity to verify. Requester notified 1/14/13. CLOSED 3/5/13 - No response from requester	
13-07	11/19/2012	[REDACTED] B6	Copy of Contract #N4008011 - F0475	Health Care Service/ Contracting				12/11/2012	Case transferred to Pax River. CLOSED 12 11/2012 Final e-mails with Pax River - 2/4/2013	

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13-08	11/20/2012	B6 (Jacob Gardner Office Supplies)	Names of Credit Card Holders	Contracting					CLOSED 5/28/13	B6
13-09	12/3/2012	Social Security Amin on behalf of B6	Medical and Psychic Records. Second request. First request went to Med Records in October	Medical Records					Medical Records will respond directly to the requester CLOSED 1/14/2013	
13-10	12/4/2012	B6	EO Complaint	EO/JAG				3/4/13	Partial Release of Information CLOSED 3/4/2013	B-5; B-6
13-11	12/17/2012	B6	Psychiatry Records	Psychiatry					CLOSED 7/1/2013	B-6 redaction for pseudo names
13-12	1/24/2013	B6	Full Contract and amendments for contract # N00168-08-P-1372	Contracting					CLOSED 1/28/13 - requested info e-mailed to requester	B4 & B6

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13-13	1/30/2013	B6 (on behalf of B6 - minor)	Copy of any subsequent report of B6 Pediatrician and reports from Radiologist	B6 Radiology					2/1/13- contacted B6 regarding request. B6 called back. He will contact requester and let me know. See enclosed e-mail. CLOSED 3/20/13	NO RECORD
13-14	2/6/2013 Hand delivered by B6	Lexis Nexis (on behalf of B6)	Accident Report	N/A	N/A	N/A	2/6/2013 - via tele	2/6/2013 - via tele	Request dated 2/6/13. Called to see if Lexis Nexis still needed info. Was informed they did not. See statement in record. CLOSED - 2/6/2013	
13-15	2/6/2013 Hand delivered by B6		Full Operative Report from 27 June 2011 surgery	Records - Denson Healthcare - Moidel	2/6/2013	2/14/2013	2/6/2013		CLOSED 3/13/13	RELEASED IN FULL
13-16	2/6/2013 Hand delivered by B6	B6	Purchases of Kimberly-Clark Corporation from 2008 to present	Contracting	2/6/2013	2/14/2013	2/6/2013	4/11/2013	Redacted copies mailed to requester CLOSED 4/11/2013	(b)(5) & (b)(6)

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13-17	2/6/2013 Hand delivered by B6	Goodman, Allen & Filetti (on behalf of B6)	Copy of in/out Patient Records	Records	2/7/2013	2/19/2013			CLOSED 7/8/2013	Full Release
13-18	2/6/2013 Hand delivered by B6	Dept Vet Affairs-New Orleans (Reference - B6)	Treatment records, hospital summaries, findings and/or diagnosis for Heart Problem - 7/1/87 - 1/1/88	Records	2/7/2013	2/19/2013			CLOSED 7/8/2013	No Record
13-19	2/7/2013	B6	Number of breast cancer surgeries performed monthly	Patient Relations					CLOSED 3/20/2013	Full Disclosure
13-20	2/26/2013	B6	Emails, Phone Calls, Letters, or other records "regarding" B6, and WRNMMC, NCIS, NRO(SSFA), Portsmouth Naval Hospital and NAVCONBRIG Chesapeake.	N/A	N/A	N/A	2/5/2013		Initial response - Need to know not specified. CLOSED 6/11/2013 No response from requester	No response from Requester

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13-21	3/13/2013	B6	12 month Purchase Card history	Contracting	3/20/2013	3/29/2013	3/20/2013			
13-22	3/20/2013	Robert Hammond	Lab Report/ Computer Printout - Value that would have existed in the computer between 12/23/ - 12/29/2013						Sent back to requester. Request unclear. Which Lab? or is report generated by IT? CLOSED 6/11/2013	Released all info in full
13-23	3/21/2013	B6 (CAPT, USN)	IG Investigation Report	IG and Investigating Officer	3/21/2013	3/29/2013	3/20/2013		Office of the Navy Inspector General took control of this request - see e-mails 4/9/ - 4/10/2013. I call B6 twice requesting official letter but she has not sent one. CLOSED 4/10/2013	Non- Official Transfer (ONIG just took the case).
13-24	4/24/2013	B6	CHCS Report	Medical Records	4/23	4/30/2013	4/24/2013			Full Release CLOSED 5/28/13

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13-25	4/11/2013	People for the Ethical Treatment of Animals (PETA) B6	2012-present records on the use of living and/or dead animals during training on Intuitive Surgical's da Vinci Surgical System	Walter Reed Army Institute of Research (WRAIR)	4/17/2013	N/A - Transferred to WRAIR - not a WRNMMC Case	4/17/2013	4/17/2013	Took awhile to find the office to send request to at WRAIR. Website give office of PAO but that office gave another number to an office that didn't exist. 5/8/2013 found B6 at USARMC - Ft. Detrick Transferred request. Requester notified. CLOSED 5/8/2013	TRANSFER
13-26	4/24/2013	Robert Hammond	Medical records 12/2011 to 8/2012 AND in/out and emergency records from 2/21/2012 AND all records after 2/21/2012 AND copies of DD form 2870 submitted 2/21/2012 to 5/30/2012	Medical Records	4/30/2013	5/13/2013	4/30/2013		CLOSED 5/23/2013	Released all received info in FULL

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13-27	4/25/2013	Calloway, LLC on behalf of [REDACTED] B6 for her sister [REDACTED] B6	EEO Settlement Case paid in Aug 2012. Want documentation.	EEO	4/30/2013	5/13/2013	4/30/2013	5/23/2013	CLOSED 5/23/2013 Transferred to NARMC - Ft Belvoir	
13-29	4/26/2013	[REDACTED] B6	Medical records - 1991 through 1995	Medical Records					CLOSED 5/28/13	No Record Requester is to contact NPRC for documents
13-30	4/30/2013	[REDACTED] B6	All correspondence relevant to case of US -vs- [REDACTED] B6 from 28 Dec 2000 to 31 Jan 2002	NCIS				CLOSED 7/8/2013		(b)(6)
13-31	4/30/2013	Instrument Specialists, Inc	Evaluation, rating for each factor, and overall rating of ISI proposal AND WRNMMC	Contracting	4/30/2013	5/20/2013	5/2/2013			

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			Contract and total scope of work for contract # RFQ763072							
13-32	5/1/2013	Dept of Vet Affairs on behalf of [REDACTED] B6	Treatment records, hospital summaries, findings and/or diagnoses - Jun thru Jul 2005	Records	5/2/2013	5/8/2013	5/2/2013	5/8/2013	Short suspense - Special request from VA. PAD already responded. NO RECORD. CLOSED 5/8/2013	
13-33	Out of sequence 4/16/2013	FOIA GROUP - Attn: [REDACTED] B6	Copy of contract #N0016812F7642 (SOW, Mods, Co Name, end user name and CTOR name)	Contracting	4/16/2013	5/3/2013	5/8/2013		No response from dept by suspense date. 5/8/2013 second request for docs sent to dept. CLOSED 5/24/2013	(b)(6)
13-34	5/13/2013	[REDACTED] B6	Documents regarding his pay	N/A	N/A	N/A	N/A	5/23/2013	NOT A PROPER FOIA CLOSED 5/23/2013	
13-35	5/28/2013	[REDACTED] B6)	NCIS Report	Armed Forces Center for Child Protection	6/13/2013 ([REDACTED] B6)	N/A	6/13/2013	6/13/2013	Spoke with [REDACTED] B6, [REDACTED] - Request is denied in full CLOSED 7/8/2013	(b)(6) and (b)(7)

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13-36	5/24/2013	B6	1. communications /documents with or from DFAS 2. E-mail/etc regarding pay 3. Copy of DD Form 2654 sent to DFAS	Finance and Accounting Office	7/1/2013	7/11/2013	7/1/2013			
13-37	5/13/2013	B6	AHLTA report from 1 Dec 2011 through 20 Mar 2013	HIPPA/ Privacy Office	7/1/2013	7/1/2013	7/1/2013	7/1/2013	Received copy of requested items from HIPPA/Privacy Office. Redacted sponsor SSN only. CLOSED 7/1/2013	(b)(6)
13-38	7/3/2013	B6	Unclear request - Security Clearance??	N/A	N/A	N/A	7/11/2013	7/11/2013 - Via tele con w/requester	Requester is a Contractor. She will contact her HR and Security Admin here to resolve request. CLOSED 7/11/2013	N/A Request unclear.
13-39	6/25/2013	Robert Hammond	Lab Report/ Computer Printout - Value that would have existed in the computer between 12/23/ - 12/29/2013	Records/ FOIA		Ms. Denson and I emailed regarding this request. Info already sent to requester.		N/A	Letter sent to requester 7/11/13. Asked and answered from case #13-22. CLOSED 7/18/2013	

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13-40	6/25/2013	Robert Hammond	Radiology and Dermatology Record along with phone consults	Records/ FOIA	Ms. Denson and I emailed regarding this request. Info already sent to requester.		N/A	7/11/2013	Letter sent to requester 7/11/13. Asked and answered from case #13-22. CLOSED 7/18/2013	
13-41	6/25/2013	Robert Hammond	Copies of DD Form 2870's (3)	Records/ FOIA	Ms. Denson and I emailed regarding this request. Info already sent to requester.		N/A	7/11/2013	Letter sent to requester 7/11/13. Asked and answered from case #13-22. CLOSED 7/18/2013	
13-42	6/25/2013	B6	Copies of "all pertinent documents of case # B6 ."	FOIA	N/A	N/A	N/A	7/11/2013	Denial - No written/justified reason to know info in another file. CLOSED 7/18/2013	B-6 & B-7
13-43	6/25/2013	Robert Hammond	Name and other identifying information for the 1:1 Sitters assigned to him on Dec 25, 2011 at 2215.	FOIA Office	N/A	N/A	7/17/2013	7/17/2013	Not a proper FOIA - no will pay statement. Information not provided in record. We do not "create" records to answer requests. CLOSED 7/17/2013	

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13-44	6/25/2013	Robert Hammond	Notes made by CAPT Curt Henry regarding hospital care from 24-26 Dec 2011	FOIA Office	N/A	N/A	7/17/2013	7/17/2013	Information not provided in record. We do not "create" records to answer requests. CLOSED 7/17/2013	B-6
13-45	6/25/2013	B6	Investigation documents for his daughter "B6"				7/23/2013		Awaiting response from requester CLOSED 9/25/2013	No response from requester
13-46	6/20/2013	B6	NCIS & JAG Investigation of the Death of B6	FOIA Office	N/A	N/A	7/23/2013		Awaiting response from requester CLOSED 9/25/2013	Certified Mail returned - "UNCLAIMED"
13-47	6/20/2013	B6	NCIS & JAG Investigation of the B6	FOIA Office	N/A	N/A	7/23/2013		Awaiting response from requester CLOSED - 9/19/2013	No response from requester
13-48	6/20/2013	B6	NCIS & JAG Investigation of the Death of B6	FOIA Office	N/A	N/A	7/23/2013		Awaiting response from requester CLOSED 9/25/2013	Certified Mail returned - "UNCLAIMED"

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13-49	7/11/2013	Archauleta/ Alsaffar & Higginbothan on behalf of B6	Employment status of Dr. B6	H/R	1/17/2013	7/22/2013	7/17/2013		Requester also want to know if Dr is protected under the Federal Tort Claims Act CLOSED 7/22/2013	- No written letter from B6 agreeing to have info forwarded to this law firm (b)(6)
13-50	7/11/2013	Archauleta/ Alsaffar & Higginbothan on behalf of B6	Employment status of Drs. B6 and	H/R	1/17/2013	7/22/2013	7/17/2013		Requester also want to know if Dr is protected under the Federal Tort Claims Act CLOSED 7/22/2013	No written letter from B6 agreeing to have info forwarded to this law firm (b)(6)
13-51		Joseph E. Schmitz, PLLC (on behalf of B6)	Investigative Report and back-up documents	Legal						
13-52	8/27/2013	Joseph Schmitz, PLLC (on behalf of B6)	MOU, Shared agreement or similar docs between USUHS & WRNMMCE relating to B6	Contracting, Radiology, Legal	9/19/2013		8/27/2013			
13-53	8/12/2013	Robert ond,	Records describing SOP or treatment protocol for symptomatic	Dept of Medicine	9/23/2013	9/27/2013	9/23/13	N//A – CASE HELD WITHOUT ACTION DUE TO LITIGATION	No further actions requested after litigation – No response given to requester.	

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			acute Hyponatremia						CLOSED – 9/29/2014	
13-54	8/16/2013	B6	Records of Refurbishment of the Autopsy room from 1966	Autopsy Room				10/7/2013	No Record. requester referred to National Archives CLOSED 10/7/2013	NO RECORD
13-55	8/23	Robert Hammond (processing held due to litigation) – informed to now process	ID of persons who accessed his laboratory records between 12/26/11 & 1/3/12	CHCS??	9/25/2013	10/18/2013		10/10/2013	Documents received from IT 10/9/2013 CLOSED 10/10/2013	Released in full
13-56	8/23	Robert Hammond (processing held due to litigation)	Numbers paged, text of those pages, ID of docs associated with each page & responses to pages on 12/26/2011 initiated by ANL 2LT Angela N. Leung	Telecom				N//A – CASE HELD WITHOUT ACTION DUE TO LITIGATION	No further actions requested after litigation – No response given to requester. CLOSED – 9/29/2014	

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13-57	9/9/13	B6	Service Contract of A.R.T Institute of Wash, Inc w/ WRNMMC along with number of people who reside in MD,VA or Washington who utilized IVF and ICSI, of the WRAMC Division of Reproductive Endocrinology and Infertility - 2000 to present	Contracting and/or Endocrinology						
13-58	9/9/13	B6	Terms of employment for B6 from 1/12 - 9/12	Behavioral Health Unit						
13-59	9/11	B6	medical records which may have been opened and read without authorization	N/A					Return to sender. Too broad. She must specify	Closed 9/15/ 2014 No Response From Requester
13-60	9/12	B6	Psych Records regarding Security Investigation.	Dept of Psychiatry	9/12/13	9/30/13		10/7/2013	DENIED - Per 10 USC 1102- Confidentiality of Records – Medical Quality Assurance	N/A

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
									Records. Section (a) and Section (f) CLOSED 10/7/2013	
13-61	9/16/13	Dean Swartz, Esq (on behalf of [REDACTED] B6)	WRNMMC protocols for diagnosis and treatment of STEMI; providers & Supervisor for [REDACTED] B6 care while in ICE; Cath Lab results.	LEGAL - [REDACTED] B6	N/A	N/A	9/16/2013	9/16/2013	This request was sent directly to [REDACTED] B6 from Navy JAG Claim Unit in Norfolk, VA. I informed the requester that JAG would respond directly. See e-mail in folder CLOSED 9/16/2013	N/A
13-62	9/19/2013	[REDACTED] B6		IG	9/25/2013	10/9/2013	9/25/2013			
13-63	9/19/2013	Adelman, Sheff & Smith (on behalf of [REDACTED] B6)	Payroll/work attendance records from 8/26/11-3/30/12	Payroll	9/25/2013	10/9/2013	9/25/2013		CLOSED 9/15/2014 No response from Requester	
13-64	9/19/2013	LexisNexis (on behalf of [REDACTED] B6)	Military Police	Accident Report	9/25/2013	10/9/2013	9/25/2013			

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13-65	9/19/2013	LexisNexis (on behalf of B6)	Military Police	Accident Report	9/25/2013	10/9/2013	9/25/2013		CLOSED 9/30/2014	Closed per requester's
13-66	9/11/2013 Opened 9/23/2013	B6	Procedures and/or treatment guidelines for Calmare Scrambler Technology device	Pain Clinic					CLOSED 9/29/2014	RELEASED IN FULL (link to company which supplies product)
13-68	9/23/2013	B6	Command Investigation (QUANTICO)	JAG/ LEGAL Attn: B6	N/A	N/A	N/A	N/A	B6 called for Case Tracking Number ONLY. He says he is personally handling this case in the Legal office.	
13-69	9/26/2013	SA Nereida Matthew-Davis (on behalf of B6)	Investigation for employment	Psychiatry (B6)	9/26/2013	9/26/2013	9/23/2013 Having trouble finding respondent	9/26/2013.	Info sent to B6 B6 9/26/2013. She will respond directly to B6. CLOSED 9/26/2013	

NARA Complaint. Alteration & Destruction of Records
ICO Walter Reed's FY 2013 FOIA Report

I. ALLEGATION.

I am alleging that:

1. The Walter Reed National Military Medical Center (“Walter Reed” or “WRNMMC”) FOIA Officer, **Judy J. Bizzell**, and/or others, materially altered multiple times & multiple copies of a document sought under FOIA and other subsequent federal record litigation evidentiary versions both prior to and **ADMITTEDLY** during litigation, and Defense Health Agency (“DHA”) **Agency Counsel Paul T. Cygnarowicz** allegedly had knowledge of those alterations, but nevertheless entered altered documents (which are also official records) into evidence, participating in such alleged malfeasance.
2. Original records and official federal record litigation evidentiary copies may have been destroyed or may be in imminent danger of being destroyed.

Federal entities (a) Walter Reed and (b) DHA, and no other entities, and employees (1) Bizzell and (2) Cygnarowicz are “Accused Parties” for the purpose of this narrow complaint (not to be combined with any other complaint). While Walter Reed is currently a subordinate entity of DHA, they each have their own accountable records officers/managers.

Given that multiple of the named Accused Parties purportedly possessed copies of subject records during litigation, each record copy is therefore its own evidentiary federal record and must be accounted for and addressed as to alterations.

Walter Reed and DHA have made multiple materially false and conflicting statements and inaccurate submissions to the Court regarding these records, heightening the likelihood of ongoing and/or further records destruction. Absent NARA’s intervention, there is a high likelihood that records that have not already been destroyed will imminently be destroyed by Accused Parties. *“Oh what a tangled web we weave when first we practice to deceive.”*

Only the actual production to NARA of each cited record by each Accused Party will suffice as proof that each record has not been destroyed.

As to citations in this complaint to District Court of Colombia in Civil Action No. 16-421 (KBJ) documents, Accused Parties hold those records, and they are also available from Pacert.gov.

II. ACTION SOUGHT.

1. Notify: (1) DHA and (2) 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. Promptly affirm the uncontroverted and admitted alteration of records. State in your findings exactly which record copies were altered (e.g., Original FY 2013 Walter Reed FOIA Processing Log as it existed at the time it was submitted as Walter Reed's FY 2013 Annual report, allegedly to Navy, Navy BUMED), who made each alteration, and when each alteration was made.
5. Affirm that DHA Agency Counsel Cygnarowicz was aware of material alterations, but nevertheless entered altered documents into evidence thru DOJ counsels. Cygnarowicz has stated that he reviewed DOJ documents prior to submission to the Court, and record evidence appears to document that he was fully aware of the alterations prior to doing so (and may have communicated with Bizzell regarding same). He is also believed to have prepared DHA's Vaughn Index¹ citing a 17-page Log prior to the materially-altered 16-page Log being released by Bizzell (as discussed below). Any participation in placing known altered documents into Court records must be documented. There is no Attorney-Client privilege or shield regarding such participation in alleged malfeasance.
6. If any records have not been destroyed, seek that each Accused Party provide to you each specifically enumerated record/record set in their possession, identifying by name who held the record, along with a record count and page number count for each record to prove their existence. Absent the Accused Parties producing each specifically enumerated record/record set for your verification to prove their existence, NARA will likely be misled. 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.

The records in question are the Original record of Walter Reed's FY 2013 FOIA processing log that I sought via FOIA on or about April 1, 2014 that Bizzell alleges that she sent to Navy, Navy/BUMED as Walter Reed's FY 2013 Annual FOIA Report Submission (along with the forwarding correspondence thereto) and other subsequent federal record evidentiary versions of that same Original record.² See below.

Alterations. Accused Parties Individually and/or Collectively, et. al:

1. First, Bizzell **altered both** a 16-page version and a 17-page version of the alleged Original record to produce two altered records during court proceedings with identical, multiple dated alterations (in the "Comment" column) after my April 1, 2014 FOIA request, after my May 27, 2014 and subsequent September 15, 2014 administrative appeals, and nearly a full year after the close of FY 2013 on September 30, 2013. Even

¹ A Vaughn Index is a document prepared by agencies that are opposing the disclosure of information under FOIA. The index must describe each document (or portion of each document) that has been withheld and provide a detailed justification of the agency's grounds for non-disclosure (i.e., the FOIA exemption relied upon must be stated). The term originates from the case of Vaughn v. Rosen [\[1\]](#)

Vaughn Indices are intended to permit a court "to make a rational decision [about] whether the withheld material must be produced without actually viewing the documents themselves." [\[2\]](#)

² Regardless of conflicting claims as to the records and to whom Bizzell may have given copies at some points in time, including during litigation. They are all federal records.

these incontrovertible alterations of the Original record may have occurred during litigation, which began on March 3, 2016.

2. Second, Bizzell **also admits to altering, during litigation**, a 17-page Log (cited in a Vaughn Index or the Original, unaltered Log, if different) to produce the 16-page Log cited above. Note, the page count of the Original, unaltered record (a **true** copy of which has never been produced) is unknown by me, such that it is not clear which Log was altered to produce the materially-altered 16-page Log.

I challenged that Bizzell had not produced a promised FY 2013 Log with redactions reduced from *fifty-three* exemption (b)(6) redactions to *fifteen* (as stated in her sworn declaration), and I opined (and Cygnarowicz is aware of this) that to do so Bizzell would have to: (a) again alter the 17-page version or the 16-page version already in evidence with dated alterations; or, (b) produce the actual, Original, unaltered Log that she states she submitted as Walter Reed's FY 2013 Annual FOIA report to Navy, Navy BUMED without those dated alterations and make the reduced *fifteen* redactions to that Original unaltered Log. Bizzell and Accused Parties then refused to release any Log with redactions reduced to *fifteen*. Shortly thereafter, by coincidence or otherwise, DOJ's Lead Counsel (Marina Braswell) (who had submitted records into evidence under her signature) withdrew from the case.³

Bizzell first released a materially-altered 16-page version of the alleged Original Log (and that version contained dated alterations such that it cannot be the Original Log), and then she released a 17-page version of that very same 16-page log containing the same dated alterations.

Both records produced contain identical multiple dated alterations in the "Comment" column after my April 1, 2014 FOIA request, after my May 27, 2014 and subsequent September 15, 2014 administrative appeals to DHA's Cygnarowicz, and nearly a full year after the close of FY 2013 on September 30, 2013. Neither, therefore, can be the Original Log. *See* Attachment A, 16-Page Log with Dated Material Alterations and Attachment B, 17-Page Log with Dated Material Alterations. For example, see identical comments to Walter Reed's FY 2013 FOIA Log case 13-53 and case 13-56 (involving my own (Robert Hammond) 2013 FOIA requests) with alterations dated **September 29, 2014**, stating, "*No further actions requested after litigation – No response given to requester. CLOSED –9/29/2014.*" Not only is September 29, 2014 after my May 27, 2014 and subsequent September 15, 2014 administrative appeals to DHA's Cygnarowicz, the instant "litigation" was not filed until two years later on April 3, 2016, raising questions as to when the alterations above citing "*after litigation*" were made. See below:

³ Bizzell subsequently re-released the same materially-altered 17-page Log, stating only that it was a Log that she had previously released and had apparently given to DHA at some point in time.

13-53 and case 13-56:

“No further actions requested after litigation – No response given to requester.

CLOSED – 9/29/2014”

Dated Alteration (numerous)

AFTER the close of FY 2013 on September 30, 2013, AFTER my April 1, 2014 FOIA request and AFTER my May 24, 2014 and subsequent September 15, 2014 administrative appeals to Agency Counsel Cygnarowicz.

Both Logs also have evident alterations, deletions within rows/and or deletions of entire rows.⁴

Bizzell admits under oath to altering the original FY 2013 FOIA processing log to produce a 16-page Log that differed from the 17- page Log cited in Defendant’s Vaughn Index, although her account and that of Agency counsel(s) are at odds as to the extent of the alterations.⁵

Destruction of Records. Accused Parties Individually and/or Collectively, et. al

Bizzell and Agency Counsel Cygnarowicz, et al., may have also unlawfully destroyed the following 6 specific records (which have never been produced in court); or they may be in imminent danger of being destroyed:

1. the Original Walter Reed FY 2013 FOIA Processing Log as it existed when submitted as Walter Reed’s FY 2013 Annual FOIA report, *purportedly* to Navy, Navy BUMED (page count unknown by me);
2. the forwarding correspondence to the Walter Reed FY 2013 FOIA Processing Log sent to Department of Navy (*presumed* to be an email from Bizzell with potentially multiple copy-to addressees (such as BUMED’s Della Garcia and Navy’s DONFOIA-PA office personnel (e.g., Robin Patterson)) and containing Walter Reed’s FY 2013 FOIA Processing Log as a PDF attachment);
3. the forwarding correspondence to the Walter Reed FY 2013 FOIA Processing Log potentially **also** sent to DHA (likely Nadine Brown) in addition to Navy (*presumed* to be an email from Bizzell with potentially multiple copy-to addressees and containing Walter Reed’s FY 2013 FOIA Processing Log as an attachment);

⁴ In the materially-altered Logs, there is a blank row at page 9 between the entries for requests 13-27 and 13-29 and there is no entry for request 13-28. There is a blank row at page 18 between requests 13-67 and 13-68. It appears that content of some sort was removed with respect to the Vaughn Index Log and potentially the Original Log purportedly submitted to Navy.

⁵ In contradiction to Bizzell’s statement regarding no alterations other than a font size change, Accused Parties state in their Response that there was at least one other alteration “removal of an empty line to correct a numbering and spacing problem,” See Dkt. No. 25-1 ¶¶ 54, 55. Bizzell did not state this. Bizzell stated under oath, “The loss of a page was the result of **reformatting the font size to improve the FY13 FOIA Log’s appearance.**” Accused Parties have not released any such Log with a difference in the number of rows or “lines” from the 16-page Log to the 17-page Log due to a blank space. Cygnarowicz is evidently involved in entering known altered documents into evidence, while evidently possessing a copy of the unaltered record(s).

4. the Walter Reed FY 2013 FOIA Processing Log as it existed at the time of my April 1, 2014 FOIA Request (*purportedly* the Original);
5. the Walter Reed FY 2013 FOIA Processing Log as it existed when DHA's Cygnarowicz reviewed my September 15, 2014 administrative appeal and upheld the Agency's unlawful withholding under Exemption 5.
6. the 17-page Vaughn Index Walter Reed FY 2013 FOIA Processing Log cited by Accused Parties (who later removed their claim of withholding the record under Exemption 5, clearing its release (with only *fifteen* exemption (b)(6) redactions)).

Background.

1. On or about April 1, 2014, I submitted a FOIA request to the Department of Navy BUMED seeking all records and raw data of the Fiscal Year ("FY") 2013 Annual FOIA Report submissions for Walter Reed as received by BUMED. See Dkt. No. 1, Complaint Ex. 3, at 20, 21.
2. My FOIA request also seeks the forwarding correspondence of Walter Reed's FY 2013 Annual FOIA Report Submission, (*presumably* sent by email from Walter Reed's FOIA Officer (Bizzell) to BUMED [and to OPNAV DNS-36, DONFIA-PA Office personnel] with the FY 2013 FOIA Processing Log as a PDF attachment).
3. On or about April 15, 2014 Navy BUMED referred my FOIA Request to Walter Reed. All the while, BUMED was getting quarterly statistical FOIA reports from Walter Reed, which were sent to DONFOIA-PA; Patterson, Robin L CIV OPNAV DNS 36 with copies to Garcia, Della W. GS BUMED. See Dkt. No. 1, Complaint Ex. 3, at 18, 20, 21; Dkt.24-12, Ex B-11 at 3.
4. On May 27, 2014, I appealed to DHA's Appellate Authority, Cygnarowicz, that Walter Reed had not answered my FOIA request at all, and then on September 29, 2014, I appealed Walter Reed's subsequent unlawful claim of Exemption (b)(5) in withholding the record, (which is required by the FOIA statute and 2016 FOIA Improvement Act to be released to the Public!).
5. On December 8, 2014, DHA's Agency Counsel Paul T. Cygnarowicz denied my administrative appeal for these records under Exemption 5⁶, and, therefore, had the actual Walter Reed FY 2013 FOIA processing log that Bizzell alleges that she sent to Navy BUMED as Walter Reed's FY 2013 Annual FOIA Report submission.
6. During litigation, by email (on Jun 28, 2016 at 11:43 PM), DOJ Lead Counsel (Braswell) sent my attorney the Accused Parties' **Vaughn Index** citing a 17-page Walter Reed

⁶ There is no deliberative process in purely statistical reports and the information was antecedent when I sought this information, having already been incorporated into final reports. The FOIA Improvement Act of 2016 requires that Agencies proactively disclose the raw data used in compiling their reports.

Accused Parties have also not released the forwarding correspondence of Walter Reed's FY 2013 Annual FOIA Report Submission.

Accused Parties have also not released Walter Reed's 2nd, 3rd, and 4th Quarterly FOIA Reports submissions to BUMED/OPNAV, providing contemporaneous statistical data.

DOJ ordered these quarterly FOIA Reports a following a GAO audit of significant deficiencies in DOD's FOIA practices, including (among others): deficiencies in assignment of tracking numbers; reporting to DOJ; over-use of Exemptions (b)(5) and (b)(6); and other matters. See GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act at <http://www.gao.gov/products/GAO-12-828>.

FOIA Processing Log responsive to my April 1, 2014 FOIA request as being withheld under Exemption 5 (as originally claimed, but then also citing Exemption 6 for certain portions, falsely alleged to be only the names of FOIA requesters seeking medical records).

7. The Proposed Vaughn Index is alleged to have been prepared by Agency Counsel Paul T. Cygnarowicz, and he allegedly possess or possessed that 17-page FY 2013 Walter Reed FOIA Processing Log cited in the Vaughn Index, as does Bizzell.
8. Walter Reed's FY 2013 FOIA Processing Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index is static. A **true copy** of that record has allegedly not been released and may have been or may about to be destroyed.
9. Walter Reed's FY 2013 FOIA Processing Log, as sent to and received by BUMED/ became a finalized report (PDF) when submitted. It is **static**. (As a data point to the approximate time the Log was sent, in 2012 Walter Reed's Bizzell sent Walter Reed's similar FY 2103 FOIA processing Log to Navy, Navy BUMED via email with attached PDF on October 1, 2013, one day after the close of the FY).
10. A **true** copy of Walter Reed's, unaltered, static FY 2013 FOIA Processing Log, as sent to and received by BUMED has incontrovertibly and verifiably not ever been released. It is presumed destroyed or in imminent danger of being destroyed.
11. During litigation (citing my April 1, 2014 FOIA Request to Navy BUMED seeking all records of the FY 2013 Annual FOIA Report Submission for Walter Reed, Dkt. No. 12, Amended Complaint ¶ 56), Accused Parties removed their claim of withholding the Original FY 2013 Log cited as Walter Reed's FY 2013 Annual Report to BUMED ("WRNMMC FOIA Office will no longer withhold from plaintiff [me] the FY 2013 FOIA Report Submission for Walter Reed.").
12. By memo dated March 9, 2017, Bizzell then released a materially-altered 16-page Walter Reed FOIA Processing Log (with redactions for *fifty-three* cases, citing Exemption 6 and citing Exemption 7). See Attachment A, 16-Page Log with Dated Material Alterations. Bizzell concurrently provided that same record to then DOJ Lead Counsel, Marina Braswell, claiming that it is the Log that Walter Reed sent as its FY 2013 Annual FOIA Report submission to BUMED/OPNAV. "*The FY13 FOIA Log is the only relevant "raw data" record of numbers the WRNMMC FOIA Office sent to BUMED for inclusion into the Congressional Report. See Dkt. No. 26-1; see also Third Bizzell Decl. Section A. ¶ 11, 17; Dkt. Dkt. No. 26, Supplemental Motion for Summary Judgement, at 6, 8; Dkt. No. 24-12, Ex. B-11, at 1 ¶ 1.c. (report sent to BUMED). [available at Pacer.gov]*
13. All the while, Bizzell, DOJ Lead Counsel (Braswell) and DHA's Agency Counsel (Paul Cygnarowicz) were purportedly in possession of the different 17-page Walter Reed FY 2013 FOIA Processing Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index (and evidently also Walter Reed's Original, unaltered FY 2013 Log in the case of Bizzell and Cygnarowicz).
14. On May 27, 2017, Bizzell then stated that she had removed her unlawful claim of Exemption (b)(7) entirely for Walter Reed's FY 2013 FOIA Processing Log as sent to/received by Navy BUMED/DONFOIA-PA and had reduced Exemption (b)(6) redactions from *fifty-three* cases to *fifteen* cases. Bizzell Third Decl., page 5. Footnote 2.⁷

⁷ "Exemption (b) (6) was applied on the previously released FY13 FOIA Log to fifty-three requests for information. Having reviewed the FY13 FOIA Log again, I reduced Exemption (b) (6) redactions to only fifteen cases, those

15. Accused Parties did not then release any Walter Reed FY 2013 FOIA Processing Log with Exemption (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases, as promised (after withdrawing their withholding under Exemptions (b)(5) and (b)(7)). See Third Bizzell Decl. ¶ 9, footnote 2.
16. Then, on July 14, 2017, Judge Jackson ordered Accused Parties and me to appear on July 25, 2017 regarding records that Accused Parties falsely stated had been released but which had not released. Such records included Walter Reed's FY 2013 FOIA Processing Log, as sent to and received by BUMED/DONFOIA-PA with (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases. See Dkt. No 27; see also Dkt. No. 28 and Order of 7/14/2017.
17. On July 24, 2017 at 5:01 PM, just before that appearance, DOJ's Lead Counsel sent my Counsel a version of Walter Reed's FY 2013 FOIA Processing Log with content and blank rows or lines that is identical to the 16-page materially-altered March 9, 2016 Bizzell memo Log (*with none of the fifty-three redactions reduced*), with the only difference being that it is 17 pages, making it appear to be the 17-page Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index. Though Accused Parties purport it to be, this 17-page Log, by virtue of its identical dated material-alterations alone cannot possibly be Walter Reed's FY 2013 FOIA Processing Log as sent to and received by Navy BUMED as Walter Reed's Annual FOIA Report submission/raw data. With dated alterations 364 days after the close of FY 2013, it is not a log provided to anyone as Walter Reed's FY 2013 FOIA report submission.
18. In Court proceedings on 7/25/2017, DOJ Lead Counsel (accompanied DHA's Agency Counsel Paul Cygnarowicz) admitted that identical dated alterations had been made to **both** the 16-page March 9, 2016 Bizzell memo Log and the 17-page Log released the night of 7/24/2017 and that neither was Walter Reed's FY 2013 FOIA Processing Log as sent to and received by Navy BUMED as Walter Reed's Annual FOIA Report submission/raw data.
19. DOJ's Lead Counsel (supported by DHA's Agency Counsel Paul Cygnarowicz) further admitted in Court proceedings on 7/25/2017, (apart from the incontrovertible dated alterations), that Bizzell altered the Original Walter Reed FOIA Processing Log from 17-pages during litigation to produce the 16-page Log accompanying her Memo dated March 9, 2017.
20. **Again, after being caught, Bizzell admitted in her sworn declaration to altering during litigation** the (alleged) Original Walter Reed FOIA Processing Log from 17-pages to produce the 16-page Log accompanying her Memo dated March 9, 2017 and contends that the only difference to the Original Log, which has never been released is, (unbelievably): "The loss of a page was the result of **reformatting the font size to improve the FY13 FOIA Log's appearance.**" See Dkt. No. 26-1, Third Bizzell Decl. ¶ 8, sentence 8 and ¶ 7, sentence 4 (admissions of alterations).⁸

which are requests for medical records, and, in an abundance of caution, those appearing to involve a request for medical records."

⁸ While any alteration is a violation of law, a careful examination of both the 17-page Log and the 16-page log with respect to the text wrapping within each cell indicates that the difference is not as Bizzell states under oath as due to a font size change, but rather simply changing the page margins during printing after being caught. Also compare page margins. I believe that alterations from the Original Log are due to deletions of content and/or entire rows/lines. NARA should be wary of any records produced by Accused Parties and potential further false claims

21. In as much as Accused Parties have never released Walter Reed's **true**, unaltered, static FY 2013 FOIA Processing Log, as sent to and received by BUMED, I do not know the true page count of that record, whether it be 16-pages, 17-pages, or some other number.
22. I challenged that Bizzell had not produced a promised FY 2013 Log with redactions reduced from *fifty-three* exemption (b)(6) redactions to *fifteen* (as stated in her sworn declaration), and I opined (and Cygnarowicz is aware of this) that to do so Bizzell would have to: (a) again alter the 17-page version or the 16-page version already in evidence with dated alterations; or, (b) produce the actual, Original, unaltered Log that she states she submitted as Walter Reed's FY 2013 Annual FOIA report to Navy, Navy BUMED without those dated alterations and make the reduced *fifteen* redactions to that Original unaltered Log.
23. Accused Parties then did not subsequently release any Walter Reed FY 2013 FOIA Processing Log with Exemption (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases, as promised (after withdrawing their withholding under Exemptions (b)(5) and (b)(7). *See Third Bizzell Decla.*, ¶ 9, footnote 2.
24. Shortly thereafter, by coincidence or otherwise, DOJ's Lead Counsel (Marina Braswell) (who had submitted records into evidence under her signature) withdrew from the case.

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

made about them. Further, the Original Log should not have any alterations after September 30, 2013, which is the close of FY 2013.

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 § 1230.3

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](#).)

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

With my respect,

/s/

Robert Hammond

Whistleblower

Attachments:

- A. 16-Page Log with Dated Material Alterations
- B. 17-Page Log with Dated Material Alterations

January 31, 2021

NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report

(b) (6) via Unauthorized Disposition UnauthorizedDisposition@nara.gov Mon, Feb 1, 2021 at 8:02 AM
Reply-to: (b) (6)
To: UnauthorizedDisposition@nara.gov
Cc: Andrea Riley <andrea.riley@nara.gov>, GRS_Team <GRS_Team@nara.gov> (b) (6)

(Best Viewed as HTML. Thx.)

Pls see below and the complete PDF complaint with footnotes and attachments, "NARA Complaint. Alteration & Destruction of Records ICO Walter Reed FY 2013 FOIA Report w. attach.pdf." A soft copy of Complaint narrative is also attached to assist you.

Thank you in advance for your integrity and perseverance.

With my respect,

Robert Hammond

Whistleblower

January 31, 2021

NARA Complaint. Alteration & Destruction of Records
ICO Walter Reed's FY 2013 FOIA Report

I. ALLEGATION.

I am alleging that:

1. The Walter Reed National Military Medical Center ("Walter Reed" or "WRNMMC") FOIA Officer, **Judy J. Bizzell**, and/or others, materially altered multiple times & multiple copies of a document sought under FOIA and other subsequent federal record litigation evidentiary versions both prior to and **ADMITTEDLY** during litigation, and Defense Health Agency ("DHA") **Agency Counsel Paul**

- T. Cygnarowicz** allegedly had knowledge of those alterations, but nevertheless entered altered documents (which are also official records) into evidence, participating in such alleged malfeasance.
- 2 Original records and official federal record litigation evidentiary copies may have been destroyed or may be in imminent danger of being destroyed.

Federal entities (a) Walter Reed and (b) DHA, and no other entities, and employees (1) Bizzell and (2) Cygnarowicz are “Accused Parties” for the purpose of this narrow complaint (not to be combined with any other complaint) While Walter Reed is currently a subordinate entity of DHA, they each have their own accountable records officers/managers.

Given that multiple of the named Accused Parties purportedly possessed copies of subject records during litigation, each record copy is therefore its own evidentiary federal record and must be accounted for and addressed as to alterations

Walter Reed and DHA have made multiple materially false and conflicting statements and inaccurate submissions to the Court regarding these records, heightening the likelihood of ongoing and/or further records destruction. Absent NARA’s intervention, there is a high likelihood that records that have not already been destroyed will imminently be destroyed by Accused Parties *“Oh what a tangled web we weave when first we practice to deceive.”*

Only the actual production to NARA of each cited record by each Accused Party will suffice as proof that each record has not been destroyed.

As to citations in this complaint to District Court of Columbia in Civil Action No 16 421 (KBJ) documents, Accused Parties hold those records, and they are also available from Pacert.gov.

II. ACTION SOUGHT.

1. Notify: (1) DHA and (2) 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. Promptly affirm the uncontroverted and admitted alteration of records. State in your findings exactly which record copies were altered (e g , Original FY 2013 Walter Reed FOIA Processing Log as it existed at the time it was submitted as Walter Reed’s FY 2013 Annual report, allegedly to Navy, Navy BUMED), who made each alteration, and when each alteration was made
5. Affirm that DHA Agency Counsel Cygnarowicz was aware of material alterations, but nevertheless entered altered documents into evidence thru DOJ counsels Cygnarowicz has stated that he reviewed DOJ documents prior to submission to the Court, and record evidence appears to document that he was fully aware of the alterations prior to doing so (and may have communicated with Bizzell regarding same). He is also believed to have prepared DHA’s Vaughn Index^[1] citing a 17-page Log prior to the materially-altered 16-page Log being released by Bizzell (as discussed below). Any participation in

placing known altered documents into Court records must be documented. There is no Attorney Client privilege or shield regarding such participation in alleged malfeasance.

- 6 If any records have not been destroyed, seek that each Accused Party provide to you each specifically enumerated record/record set in their possession, identifying by name who held the record, along with a record count and page number count for each record to prove their existence. Absent the Accused Parties producing each specifically enumerated record/record set for your verification to prove their existence, NARA will likely be misled. 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

The records in question are the Original record of Walter Reed's FY 2013 FOIA processing log that I sought via FOIA on or about April 1, 2014 that Bizzell alleges that she sent to Navy, Navy/BUMED as Walter Reed's FY 2013 Annual FOIA Report Submission (along with the forwarding correspondence thereto) and other subsequent federal record evidentiary versions of that same Original record.^[2] See below.

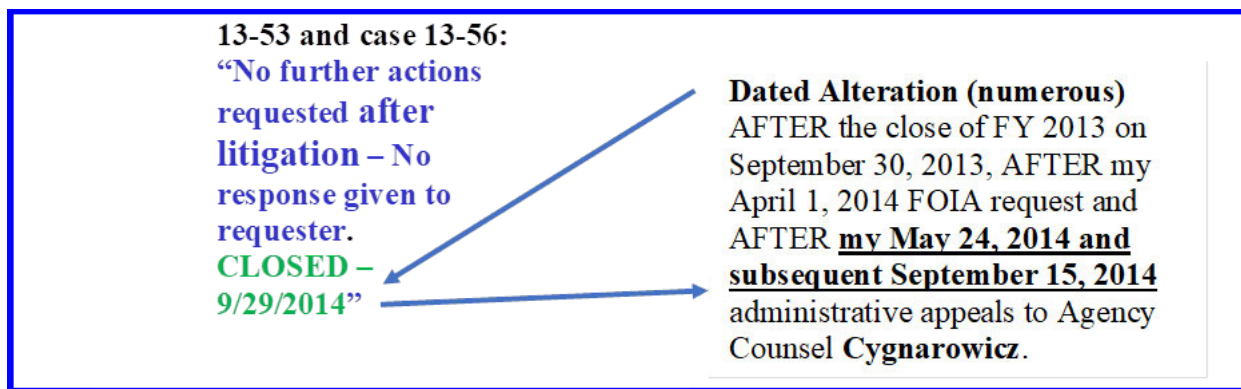
Alterations. Accused Parties Individually and/or Collectively, et. al:

1. First, Bizzell **altered both** a 16-page version and a 17-page version of the alleged Original record to produce two altered records during court proceedings with identical, multiple dated alterations (in the "Comment" column) after my April 1, 2014 FOIA request, after my May 27, 2014 and subsequent September 15, 2014 administrative appeals, and nearly a full year after the close of FY 2013 on September 30, 2013. Even these incontrovertible alterations of the Original record may have occurred during litigation, which began on March 3, 2016.
2. Second, Bizzell **also admits to altering, during litigation**, a 17-page Log (cited in a Vaughn Index or the Original, unaltered Log, if different) to produce the 16-page Log cited above. Note, the page count of the Original, unaltered record (a **true** copy of which has never been produced) is unknown by me, such that it is not clear which Log was altered to produce the materially-altered 16-page Log.

I challenged that Bizzell had not produced a promised FY 2013 Log with redactions reduced from *fifty-three* exemption (b)(6) redactions to *fifteen* (as stated in her sworn declaration), and I opined (and Cygnarowicz is aware of this) that to do so Bizzell would have to: (a) again alter the 17-page version or the 16-page version already in evidence with dated alterations; or, (b) produce the actual, Original, unaltered Log that she states she submitted as Walter Reed's FY 2013 Annual FOIA report to Navy, Navy BUMED without those dated alterations and make the reduced *fifteen* redactions to that Original unaltered Log. Bizzell and Accused Parties then refused to release any Log with redactions reduced to *fifteen*. Shortly thereafter, by coincidence or otherwise, DOJ's Lead Counsel (Marina Braswell) (who had submitted records into evidence under her signature) withdrew from the case^[3]

Bizzell first released a materially-altered 16-page version of the alleged Original Log (and that version contained dated alterations such that it cannot be the Original Log), and then she released a 17 page version of that very same 16-page log containing the same dated alterations.

Both records produced contain identical multiple dated alterations in the “Comment” column after my April 1, 2014 FOIA request, after my May 27, 2014 and subsequent September 15, 2014 administrative appeals to DHA’s Cygnarowicz, and nearly a full year after the close of FY 2013 on September 30, 2013. Neither, therefore, can be the Original Log. See Attachment A, 16-Page Log with Dated Material Alterations and Attachment B, 17-Page Log with Dated Material Alterations. For example, see identical comments to Walter Reed’s FY 2013 FOIA Log case 13-53 and case 13-56 (involving my own (Robert Hammond) 2013 FOIA requests) with alterations dated **September 29, 2014**, stating, “*No further actions requested after litigation – No response given to requester. CLOSED –9/29/2014.*” Not only is September 29, 2014 after my May 27, 2014 and subsequent September 15, 2014 administrative appeals to DHA’s Cygnarowicz, the instant “litigation” was not filed until two years later on April 3, 2016, raising questions as to when the alterations above citing “*after litigation*” were made. See below:



Both Logs also have evident alterations, deletions within rows/and or deletions of entire rows. ^[4]

Bizzell admits under oath to altering the original FY 2013 FOIA processing log to produce a 16-page Log that differed from the 17- page Log cited in Defendant’s Vaughn Index, although her account and that of Agency counsel(s) are at odds as to the extent of the alterations. ^[5]

Destruction of Records. Accused Parties Individually and/or Collectively, et. al

Bizzell and Agency Counsel Cygnarowicz, et al., may have also unlawfully destroyed the following **6** specific records (which have never been produced in court); or they may be in imminent danger of being destroyed:

1. the Original Walter Reed FY 2013 FOIA Processing Log as it existed when submitted as Walter Reed’s FY 2013 Annual FOIA report, *purportedly* to Navy, Navy BUMED (page count unknown by me);
2. the forwarding correspondence to the Walter Reed FY 2013 FOIA Processing Log sent to Department of Navy (*presumed* to be an email from Bizzell with potentially multiple copy-to addressees (such as

- BUMED's Della Garcia and Navy's DONFOIA-PA office personnel (e.g., Robin Patterson)) and containing Walter Reed's FY 2013 FOIA Processing Log as a PDF attachment);
3. the forwarding correspondence to the Walter Reed FY 2013 FOIA Processing Log potentially **also** sent to DHA (likely Nadine Brown) in addition to Navy (*presumed* to be an email from Bizzell with potentially multiple copy-to addressees and containing Walter Reed's FY 2013 FOIA Processing Log as an attachment);
 4. the Walter Reed FY 2013 FOIA Processing Log as it existed at the time of my April 1, 2014 FOIA Request (*purportedly* the Original);
 5. the Walter Reed FY 2013 FOIA Processing Log as it existed when DHA's Cygnarowicz reviewed my September 15, 2014 administrative appeal and upheld the Agency's unlawful withholding under Exemption 5.
 6. the 17-page Vaughn Index Walter Reed FY 2013 FOIA Processing Log cited by Accused Parties (who later removed their claim of withholding the record under Exemption 5, clearing its release (with only *fifteen* exemption (b)(6) redactions)).

Background.

1. On or about April 1, 2014, I submitted a FOIA request to the Department of Navy BUMED seeking all records and raw data of the Fiscal Year ("FY") 2013 Annual FOIA Report submissions for Walter Reed as received by BUMED. See Dkt. No. 1, Complaint Ex. 3, at 20, 21.
2. My FOIA request also seeks the forwarding correspondence of Walter Reed's FY 2013 Annual FOIA Report Submission, (*presumably* sent by email from Walter Reed's FOIA Officer (Bizzell) to BUMED [and to OPNAV DNS-36, DONFIA-PA Office personnel] with the FY 2013 FOIA Processing Log as a PDF attachment).
3. On or about April 15, 2014 Navy BUMED referred my FOIA Request to Walter Reed. All the while, BUMED was getting quarterly statistical FOIA reports from Walter Reed, which were sent to DONFOIA-PA; Patterson, Robin L CIV OPNAV DNS 36 with copies to Garcia, Della W. GS BUMED. See Dkt. No. 1, Complaint Ex. 3, at 18, 20, 21; Dkt.24-12, Ex B-11 at 3.
4. On May 27, 2014, I appealed to DHA's Appellate Authority, Cygnarowicz, that Walter Reed had not answered my FOIA request at all, and then on September 29, 2014, I appealed Walter Reed's subsequent unlawful claim of Exemption (b)(5) in withholding the record, (which is required by the FOIA statute and 2016 FOIA Improvement Act to be released to the Public!).
5. On December 8, 2014, DHA's Agency Counsel Paul T. Cygnarowicz denied my administrative appeal for these records under Exemption 5^[6], and, therefore, had the actual Walter Reed FY 2013 FOIA processing log that Bizzell alleges that she sent to Navy BUMED as Walter Reed's FY 2013 Annual FOIA Report submission.
6. During litigation, by email (on Jun 28, 2016 at 11:43 PM), DOJ Lead Counsel (Braswell) sent my attorney the Accused Parties' **Vaughn Index** citing a 17-page Walter Reed FOIA Processing Log responsive to my April 1, 2014 FOIA request as being withheld under Exemption 5 (as originally claimed, but then also citing Exemption 6 for certain portions, falsely alleged to be only the names of FOIA requesters seeking medical records).
7. The Proposed Vaughn Index is alleged to have been prepared by Agency Counsel Paul T. Cygnarowicz, and he allegedly possess or possessed that 17-page FY 2013 Walter Reed FOIA Processing Log cited in the Vaughn Index, as does Bizzell.
8. Walter Reed's FY 2013 FOIA Processing Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index is static. A **true copy** of that record has allegedly not been released and may have been or may about to be destroyed.
9. Walter Reed's FY 2013 FOIA Processing Log, as sent to and received by BUMED/ became a finalized report (PDF) when submitted. It is **static**. (As a data point to the approximate time the Log was sent, in 2012 Walter Reed's Bizzell sent Walter Reed's similar FY 2103 FOIA processing Log to Navy, Navy BUMED via email with attached PDF on October 1, 2013, one day after the close of the FY).

10. A **true** copy of Walter Reed's, unaltered, static FY 2013 FOIA Processing Log, as sent to and received by BUMED has incontrovertibly and verifiably not ever been released. It is presumed destroyed or in imminent danger of being destroyed.
11. During litigation (citing my April 1, 2014 FOIA Request to Navy BUMED seeking all records of the FY 2013 Annual FOIA Report Submission for Walter Reed, Dkt. No. 12, Amended Complaint ¶ 56), Accused Parties removed their claim of withholding the Original FY 2013 Log cited as Walter Reed's FY 2013 Annual Report to BUMED ("WRNMMC FOIA Office will no longer withhold from plaintiff [me] the FY 2013 FOIA Report Submission for Walter Reed.").
12. By memo dated March 9, 2017, Bizzell then released a materially-altered 16-page Walter Reed FOIA Processing Log (with redactions for *fifty-three* cases, citing Exemption 6 and citing Exemption 7). **See Attachment A, 16-Page Log with Dated Material Alterations.** Bizzell concurrently provided that same record to then DOJ Lead Counsel, Marina Braswell, claiming that it is the Log that Walter Reed sent as its FY 2013 Annual FOIA Report submission to BUMED/OPNAV. "*The FY13 FOIA Log is the only relevant "raw data" record of numbers the WRNMMC FOIA Office sent to BUMED for inclusion into the Congressional Report. See Dkt. No. 26-1; see also Third Bizzell Decl. Section A. ¶ 11, 17; Dkt. Dkt. No. 26, Supplemental Motion for Summary Judgement, at 6, 8; Dkt. No. 24-12, Ex. B-11, at 1 ¶ 1.c. (report sent to BUMED). [available at Pacer.gov]*
13. All the while, Bizzell, DOJ Lead Counsel (Braswell) and DHA's Agency Counsel (Paul Cygnarowicz) were purportedly in possession of the different 17-page Walter Reed FY 2013 FOIA Processing Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index (and evidently also Walter Reed's Original, unaltered FY 2013 Log in the case of Bizzell and Cygnarowicz).
14. On May 27, 2017, Bizzell then stated that she had removed her unlawful claim of Exemption (b)(7) entirely for Walter Reed's FY 2013 FOIA Processing Log as sent to/received by Navy BUMED/DONFOIA-PA and had reduced Exemption (b)(6) redactions from *fifty-three* cases to *fifteen* cases. Bizzell Third Decl., page 5. Footnote 2. ^[7]
15. Accused Parties did not then release any Walter Reed FY 2013 FOIA Processing Log with Exemption (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases, as promised (after withdrawing their withholding under Exemptions (b)(5) and (b)(7)). *See Third Bizzell Decl. ¶ 9, footnote 2.*
16. Then, on July 14, 2017, Judge Jackson ordered Accused Parties and me to appear on July 25, 2017 regarding records that Accused Parties falsely stated had been released but which had not released. Such records included Walter Reed's FY 2013 FOIA Processing Log, as sent to and received by BUMED/DONFOIA-PA with (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases. *See Dkt. No 27; see also Dkt. No. 28 and Order of 7/14/2017.*
17. On July 24, 2017 at 5:01 PM, just before that appearance, DOJ's Lead Counsel sent my Counsel a version of Walter Reed's FY 2013 FOIA Processing Log with content and blank rows or lines that is identical to the 16-page materially-altered March 9, 2016 Bizzell memo Log (*with none of the fifty-three redactions reduced*), with the only difference being that it is 17 pages, making it appear to be the 17-page Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index. Though Accused Parties purport it to be, this 17-page Log, by virtue of its identical dated material-alterations alone cannot possibly be Walter Reed's FY 2013 FOIA Processing Log as sent to and received by Navy BUMED as Walter Reed's Annual FOIA Report submission/raw data. With dated alterations 364 days after the close of FY 2013, it is not a log provided to anyone as Walter Reed's FY 2013 FOIA report submission.
18. In Court proceedings on 7/25/2017, DOJ Lead Counsel (accompanied DHA's Agency Counsel Paul Cygnarowicz) admitted that identical dated alterations had been made to **both** the 16-page March 9, 2016 Bizzell memo Log and the 17-page Log released the night of 7/24/2017 and that neither was Walter Reed's FY 2013 FOIA Processing Log as sent to and received by Navy BUMED as Walter Reed's Annual FOIA Report submission/raw data.
19. DOJ's Lead Counsel (supported by DHA's Agency Counsel Paul Cygnarowicz) further admitted in Court proceedings on 7/25/2017, (apart from the incontrovertible dated alterations), that Bizzell altered the Original Walter Reed FOIA Processing Log from 17-pages during litigation to produce the 16-page Log accompanying her Memo dated March 9, 2017.

- 20 **Again, after being caught, Bizzell admitted in her sworn declaration to altering during litigation** the (alleged) Original Walter Reed FOIA Processing Log from 17-pages to produce the 16-page Log accompanying her Memo dated March 9, 2017 and contends that the only difference to the Original Log, which has never been released is, (unbelievably): “The loss of a page was the result of **reformatting the font size to improve the FY13 FOIA Log’s appearance**” See Dkt No 26 1, Third Bizzell Decl. ¶ 8, sentence 8 and ¶ 7, sentence 4 (admissions of alterations).^[8]
21. In as much as Accused Parties have never released Walter Reed’s **true**, unaltered, static FY 2013 FOIA Processing Log, as sent to and received by BUMED, I do not know the true page count of that record, whether it be 16-pages, 17-pages, or some other number.
22. I challenged that Bizzell had not produced a promised FY 2013 Log with redactions reduced from *fifty-three* exemption (b)(6) redactions to *fifteen* (as stated in her sworn declaration), and I opined (and Cygnarowicz is aware of this) that to do so Bizzell would have to: (a) again alter the 17-page version or the 16-page version already in evidence with dated alterations; or, (b) produce the actual, Original, unaltered Log that she states she submitted as Walter Reed’s FY 2013 Annual FOIA report to Navy, Navy BUMED without those dated alterations and make the reduced *fifteen* redactions to that Original unaltered Log.
23. Accused Parties then did not subsequently release any Walter Reed FY 2013 FOIA Processing Log with Exemption (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases, as promised (after withdrawing their withholding under Exemptions (b)(5) and (b)(7). See Third Bizzell Decla., ¶ 9, footnote 2.
24. Shortly thereafter, by coincidence or otherwise, DOJ’s Lead Counsel (Marina Braswell) (who had submitted records into evidence under her signature) withdrew from the case.

IV. APPLICABLE RETENTION SCHEDULE, NARA GRS 4.2 Item 20

020	<p>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:</p> <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 	<p>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.</p>	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 § 1230.3

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](#))

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

With my respect,

/s/

Robert Hammond

January 31, 2021

Whistleblower

Attachments:

- A. 16-Page Log with Dated Material Alterations
- B. 17 Page Log with Dated Material Alterations

[1] A Vaughn Index is a document prepared by agencies that are opposing the disclosure of information under FOIA. The index must describe each document (or portion of each document) that has been withheld and provide a detailed

justification of the agency's grounds for non-disclosure (i.e., the FOIA exemption relied upon must be stated). The term originates from the case of Vaughn v. Rosen [1]

Vaughn Indices are intended to permit a court "to make a rational decision [about] whether the withheld material must be produced without actually viewing the documents themselves." [2]

[2] Regardless of conflicting claims as to the records and to whom Bizzell may have given copies at some points in time, including during litigation. They are all federal records.

[3] Bizzell subsequently re-released the same materially-altered 17-page Log, stating only that it was a Log that she had previously released and had apparently given to DHA at some point in time.

[4] In the materially-altered Logs, there is a blank row at page 9 between the entries for requests 13-27 and 13-29 and there is no entry for request 13-28. There is a blank row at page 18 between requests 13-67 and 13-68. It appears that content of some sort was removed with respect to the Vaughn Index Log and potentially the Original Log purportedly submitted to Navy.

[5] In contradiction to Bizzell's statement regarding no alterations other than a font size change, Accused Parties state in their Response that there was at least one other alteration "removal of an empty line to correct a numbering and spacing problem," See Dkt. No. 25-1 ¶¶ 54, 55. Bizzell did not state this. Bizzell stated under oath, "The loss of a page was the result of **reformatting the font size to improve the FY13 FOIA Log's appearance.**" Accused Parties have not released any such Log with a difference in the number of rows or "lines" from the 16-page Log to the 17-page Log due to a blank space. Cygnarowicz is evidently involved in entering known altered documents into evidence, while evidently possessing a copy of the unaltered record(s).

[6] There is no deliberative process in purely statistical reports and the information was antecedent when I sought this information, having already been incorporated into final reports. The FOIA Improvement Act of 2016 requires that Agencies proactively disclose the raw data used in compiling their reports.

Accused Parties have also not released the forwarding correspondence of Walter Reed's FY 2013 Annual FOIA Report Submission.

Accused Parties have also not released Walter Reed's 2nd, 3rd, and 4th Quarterly FOIA Reports submissions to BUMED/OPNAV, providing contemporaneous statistical data.

DOJ ordered these quarterly FOIA Reports a following a GAO audit of significant deficiencies in DOD's FOIA practices, including (among others): deficiencies in assignment of tracking numbers; reporting to DOJ; over-use of Exemptions (b)(5) and (b)(6); and other matters. See GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act at <http://www.gao.gov/products/GAO-12-828>.

[7] "Exemption (b) (6) was applied on the previously released FY13 FOIA Log to fifty-three requests for information. Having reviewed the FY13 FOIA Log again, I reduced Exemption (b) (6) redactions to only fifteen cases, those

which are requests for medical records, and, in an abundance of caution, those appearing to involve a request for medical records."

[8] While any alteration is a violation of law, a careful examination of both the 17-page Log and the 16-page log with respect to the text wrapping within each cell indicates that the difference is not as Bizzell states under oath as due to a font size change, but rather simply changing the page margins during printing after being caught. Also compare page margins. I believe that alterations from the Original Log are due to deletions of content and/or entire rows/lines. NARA should be wary of any records produced by Accused Parties and potential further false claims made about them. Further, the Original Log should not have any alterations after September 30, 2013, which is the close of FY 2013.

2 attachments

 **NARA Complaint. Alteration & Destruciton of Records ICO Walter Reed FY 2013 FOIA Report w. attach.pdf**
2401K

 **NARA Complaint. Alteration & Destruciton of Records ICO Walter Reed FY 2013 FOIA Report.docx**
53K

**+ Cygnarowicz. RE: IMPORTANCE HIGH. DHA and WALTER REED not Navy.RE:
NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013
FOIA Report**

(b) (6) via Unauthorized Disposition <UnauthorizedDisposition@nara.gov> Tue, Feb 2, 2021 at 12:09 PM
Reply to (b) (6)
To: UnauthorizedDisposition <unauthorizeddisposition@nara.gov>, Andrea Riley <andrea.riley@nara.gov>, GRS_Team
<GRS_Team@nara.gov>, Jametta Davis <UnauthorizedDisposition@nara.gov>
Cc: (b) (6)

Thank you very much for your prompt reply.

Please examine carefully DHA's Deputy General Counsel Paul T. Cygnarowicz' role in (potentially) submitting known materially-altered records into evidence, and potentially more. He personally acted on my 2014 administrative appeals seeking the records.

He has admitted to seeing the Vaughn Index Log (if he in fact did not personally produce it), and to his knowledge of resultant 16-page to 17-page count alterations (to that or another Log) during court proceedings. Unlawful in my view as a layperson. Don't know the actual page count of the Vaughn Index log cited as 17-pages, which is a record that should be produced to NARA.

It is not unthinkable, in my opinion, that he may have advised Bizzell how to respond to the page count differences (once caught) and potentially how to produce a 17-page Log to enter into evidence with identical dated alterations to the 16-page Log. Neither Log is a Log that existed at the time of my FOIA request or appeal, based on dated alterations through September 29, 2014 alone. When each litigation evidence Log was produced, how (and by whom) are germane to unravelling this matter.

Without addressing the dated alterations in the Logs placed into evidence, and while denying culpability, Cygnarowicz has asserted outside of litigation:

- 1 "And even had the Agency falsified or otherwise altered document , if that happened pre litigation, Mr Cygnarowicz—as FOIA agency counsel— did not create or alter any documents the Agency produced to Hammond."
2. Further, "Hypothetically, if any alteration occurred after Hammond sued, Mr. Cygnarowicz's role during that period wa to act a the liaison between the Assistant United State Attorney handling the litigation for the Agency and the Agency."

This stinks In my opinion, rat deserting a sinking ship to leave other lower level folks like poor Ms Bizzell (presumably GS-11) holding the bag alone. Worse yet, Cygnarowicz is a high-ranking, field grade Reservist Military Officer, which offends me

In my view, potentially with proper advice from Counsel, this may have all ended in 2014 without anyone getting into trouble. Very sad.

With my respect,

Robert Hammond

From Unauthorized Disposition unauthorizeddisposition@nara.gov
Sent: Monday, February 1, 2021 3:49 PM
To: (b) (6); Andrea Riley <andrea.riley@nara.gov>; GRS_Team <GRS_Team@nara.gov>
Subject: Re: IMPORTANCE HIGH. DHA and WALTER REED not Navy.RE: NARA Complaint. Alteration & Destruction of Record 'ICO Walter Reed' FY 2013 FOIA Report

Good afternoon,

NARA is aware that this issue is separate from the ongoing case with the Navy. Thank

NARA

Overnight and Reporting Team

On Mon, Feb 1, 2021 at 3:37 PM (b) (6) via Unauthorized Disposition unauthorizeddisposition@nara.gov wrote:

Ms. Davis and NARA unauthorized disposition staff,

This is a completely different matter, separate from Navy, involving alteration of records during litigation by Walter Reed and DHA and further destruction of records

Please promptly confirm that you are not combining these distinctly different Complaints against different agencies with different allegations

Pls see below.

I. ALLEGATION.

I am alleging that

1. The Walter Reed National Military Medical Center (“Walter Reed” or “WRNMMC”) FOIA Officer, **Judy J. Bizzell**, and/or others, materially altered multiple times & multiple copies of a document sought under FOIA and other subsequent federal record litigation evidentiary versions both prior to and **ADMITTEDLY** during litigation, and Defense Health Agency (“DHA”) **Agency**

Counsel Paul T. Cygnarowicz allegedly had knowledge of those alterations, but nevertheless entered altered documents (which are also official records) into evidence, participating in such alleged malfeasance

2. Original records and official federal record litigation evidentiary copies may have been destroyed or may be in imminent danger of being destroyed

Federal entities (a) Walter Reed and (b) DHA, and no other entities, and employees (1) Bizzell and (2) Cygnarowicz are “Accused Parties” for the purpose of this narrow complaint (not to be combined with any other complaint). While Walter Reed is currently a subordinate entity of DHA, they each have their own accountable records officers/managers.

Thank you in advance for your integrity and perseverance

With my respect,

Robert Hammond

Whistleblower

From: Jametta Davis <UnauthorizedDisposition@nara.gov>

Sent: Monday, February 1, 2021 2:20 PM

To (b) (6)

Subject: Re: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report

Dear Mr. Hammond,

Thank you for providing the additional information. We are continuing to work with the Navy to get this matter resolved.

On Mon, Feb 1, 2021 at 8:04 AM (b) (6) via Unauthorized Disposition <UnauthorizedDisposition@nara.gov> wrote:

(Best Viewed as HTML Thx)

Pls see below and the complete PDF complaint with footnotes and attachments, “NARA Complaint. Alteration & Destruction of Records ICO Walter Reed FY 2013 FOIA Report w attach pdf” A soft copy of Complaint narrative is also attached to assist you.

Thank you in advance for your integrity and perseverance

With my respect,

Robert Hammond

Whistleblower

January 31, 2021

NARA Complaint. Alteration & Destruction of Records

ICO Walter Reed's FY 2013 FOIA Report

I. ALLEGATION.

I am alleging that:

1. The Walter Reed National Military Medical Center (“Walter Reed” or “WRNMMC”) FOIA Officer, **Judy J. Bizzell**, and/or others, materially altered multiple times & multiple copies of a document sought under FOIA and other subsequent federal record litigation evidentiary versions both prior to and **ADMITTEDLY** during litigation, and Defense Health Agency (“DHA”) **Agency Counsel Paul T. Cygnarowicz** allegedly had knowledge of those alterations, but nevertheless entered altered documents (which are also official records) into evidence, participating in such alleged malfeasance.
2. Original records and official federal record litigation evidentiary copies may have been destroyed or may be in imminent danger of being destroyed.

Federal entities (a) Walter Reed and (b) DHA, and no other entities, and employees (1) Bizzell and (2) Cygnarowicz are “Accused Parties” for the purpose of this narrow complaint (not to be combined with any other complaint). While Walter Reed is currently a subordinate entity of DHA, they each have their own accountable records officers/managers.

Given that multiple of the named Accused Parties purportedly possessed copies of subject records during litigation, each record copy is therefore its own evidentiary federal record and must be accounted for and addressed as to alterations.

Walter Reed and DHA have made multiple materially false and conflicting statements and inaccurate submissions to the Court regarding these records, heightening the likelihood of ongoing and/or further records destruction. Absent NARA’s intervention, there is a high likelihood that records that have not already been destroyed will imminently be destroyed by Accused Parties. *“Oh what a tangled web we weave when first we practice to deceive.”*

Only the actual production to NARA of each cited record by each Accused Party will suffice as proof that each record has not been destroyed.

As to citations in this complaint to District Court of Columbia in Civil Action No 16 421 (KBJ) documents, Accused Parties hold those records, and they are also available from Pacert.gov.

II. ACTION SOUGHT.

1. Notify: (1) DHA and (2) 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. Promptly affirm the uncontroverted and admitted alteration of records. State in your findings exactly which record copies were altered (e g , Original FY 2013 Walter Reed FOIA Processing Log as it existed at the time it was submitted as Walter Reed's FY 2013 Annual report, allegedly to Navy, Navy BUMED), who made each alteration, and when each alteration was made
5. Affirm that DHA Agency Counsel Cygnarowicz was aware of material alterations, but nevertheless entered altered documents into evidence thru DOJ counsels Cygnarowicz has stated that he reviewed DOJ documents prior to submission to the Court, and record evidence appears to document that he was fully aware of the alterations prior to doing so (and may have communicated with Bizzell regarding same). He is also believed to have prepared DHA's Vaughn Index^[1] citing a 17-page Log prior to the materially-altered 16-page Log being released by Bizzell (as discussed below). Any participation in placing known altered documents into Court records must be documented. There is no Attorney-Client privilege or shield regarding such participation in alleged malfeasance.
6. If any records have not been destroyed, seek that each Accused Party provide to you each specifically enumerated record/record set in their possession, identifying by name who held the record, along with a record count and page number count for each record to prove their existence. Absent the Accused Parties producing each specifically enumerated record/record set for your verification to prove their existence, NARA will likely be mis-lead. 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.

The records in question are the Original record of Walter Reed's FY 2013 FOIA processing log that I sought via FOIA on or about April 1, 2014 that Bizzell alleges that she sent to Navy, Navy/BUMED as Walter Reed's FY 2013 Annual FOIA Report Submission (along with the forwarding correspondence thereto) and other subsequent federal record evidentiary versions of that same Original record ^[2] See below.

Alterations. Accused Parties Individually and/or Collectively, et. al:

- 1 First, Bizzell **altered both** a 16 page version and a 17 page version of the alleged Original record to produce two altered records during court proceedings with identical, multiple dated alterations (in the “Comment” column) after my April 1, 2014 FOIA request, after my May 27, 2014 and subsequent September 15, 2014 administrative appeals, and nearly a full year after the close of FY 2013 on September 30, 2013. Even these incontrovertible alterations of the Original record may have occurred during litigation, which began on March 3, 2016.
- 2 Second, Bizzell **also admits to altering, during litigation**, a 17 page Log (cited in a Vaughn Index or the Original, unaltered Log, if different) to produce the 16-page Log cited above. Note, the page count of the Original, unaltered record (a **true** copy of which has never been produced) is unknown by me, such that it is not clear which Log was altered to produce the materially-altered 16 page Log

I challenged that Bizzell had not produced a promised FY 2013 Log with redactions reduced from *fifty-three* exemption (b)(6) redactions to *fifteen* (as stated in her sworn declaration), and I opined (and Cygnarowicz is aware of this) that to do so Bizzell would have to: (a) again alter the 17-page version or the 16 page version already in evidence with dated alterations; or, (b) produce the actual, Original, unaltered Log that she states she submitted as Walter Reed’s FY 2013 Annual FOIA report to Navy, Navy BUMED without those dated alterations and make the reduced *fifteen* redactions to that Original unaltered Log. Bizzell and Accused Parties then refused to release any Log with redactions reduced to *fifteen*. Shortly thereafter, by coincidence or otherwise, DOJ’s Lead Counsel (Marina Braswell) (who had submitted records into evidence under her signature) withdrew from the case.^[3]

Bizzell first released a materially-altered 16-page version of the alleged Original Log (and that version contained dated alterations such that it cannot be the Original Log), and then she released a 17-page version of that very same 16-page log containing the same dated alterations.

Both records produced contain identical multiple dated alterations in the “Comment” column after my April 1, 2014 FOIA request, after my May 27, 2014 and subsequent September 15, 2014 administrative appeals to DHA’s Cygnarowicz, and nearly a full year after the close of FY 2013 on September 30, 2013. Neither, therefore, can be the Original Log. *See* Attachment A, 16-Page Log with Dated Material Alterations and Attachment B, 17-Page Log with Dated Material Alterations. For example, see identical comments to Walter Reed’s FY 2013 FOIA Log case 13-53 and case 13-56 (involving my own (Robert Hammond) 2013 FOIA requests) with alterations dated **September 29, 2014**, stating, “*No further actions requested after litigation – No response given to requester. CLOSED –9/29/2014.*” Not only is September 29, 2014 after my May 27, 2014 and subsequent September 15, 2014 administrative appeals to DHA’s Cygnarowicz, the instant “litigation” was not filed until two years later on April 3, 2016, raising questions as to when the alterations above citing “*after litigation*” were made. See below:

13-53 and case 13-56:

“No further actions
requested after
litigation – No
response given to
requester.

CLOSED –
9/29/2014”

Dated Alteration (numerous)
AFTER the close of FY 2013 on
September 30, 2013, AFTER my
April 1, 2014 FOIA request and
AFTER my May 24, 2014 and
subsequent September 15, 2014
administrative appeals to Agency
Counsel **Cygnarowicz**.

Both Logs also have evident alterations, deletions within rows/and or deletions of entire rows.^[4]

Bizzell admits under oath to altering the original FY 2013 FOIA processing log to produce a 16-page Log that differed from the 17- page Log cited in Defendant’s Vaughn Index, although her account and that of Agency counsel(s) are at odds as to the extent of the alterations.^[5]

Destruction of Records. Accused Parties Individually and/or Collectively, et. al

Bizzell and Agency Counsel Cygnarowicz, et al., may have also unlawfully destroyed the following 6 specific records (which have never been produced in court); or they may be in imminent danger of being destroyed:

- 1 the Original Walter Reed FY 2013 FOIA Processing Log as it existed when submitted as Walter Reed’s FY 2013 Annual FOIA report, *purportedly* to Navy, Navy BUMED (page count unknown by me);
2. the forwarding correspondence to the Walter Reed FY 2013 FOIA Processing Log sent to Department of Navy (*presumed* to be an email from Bizzell with potentially multiple copy to addressees (such as BUMED’s Della Garcia and Navy’s DONFOIA-PA office personnel (e.g., Robin Patterson)) and containing Walter Reed’s FY 2013 FOIA Processing Log as a PDF attachment);
- 3 the forwarding correspondence to the Walter Reed FY 2013 FOIA Processing Log potentially **also** sent to DHA (likely Nadine Brown) in addition to Navy (*presumed* to be an email from Bizzell with potentially multiple copy to addressees and containing Walter Reed’s FY 2013 FOIA Processing Log as an attachment);
- 4 the Walter Reed FY 2013 FOIA Processing Log as it existed at the time of my April 1, 2014 FOIA Request (*purportedly* the Original);
- 5 the Walter Reed FY 2013 FOIA Processing Log as it existed when DHA’s Cygnarowicz reviewed my September 15, 2014 administrative appeal and upheld the Agency’s unlawful withholding under Exemption 5
6. the 17-page Vaughn Index Walter Reed FY 2013 FOIA Processing Log cited by Accused Parties (who later removed their claim of withholding the record under Exemption 5, clearing its release (with only *fifteen* exemption (b)(6) redactions)).

Background.

1. On or about April 1, 2014, I submitted a FOIA request to the Department of Navy BUMED seeking all records and raw data of the Fiscal Year (“FY”) 2013 Annual FOIA Report submissions for Walter Reed as received by BUMED. See Dkt. No. 1, Complaint Ex. 3, at 20, 21.
2. My FOIA request also seeks the forwarding correspondence of Walter Reed’s FY 2013 Annual FOIA Report Submission, (*presumably* sent by email from Walter Reed’s FOIA Officer (Bizzell) to BUMED [and to OPNAV DNS 36, DONFIA PA Office personnel] with the FY 2013 FOIA Processing Log as a PDF attachment).
3. On or about April 15, 2014 Navy BUMED referred my FOIA Request to Walter Reed. All the while, BUMED was getting quarterly statistical FOIA reports from Walter Reed, which were sent to DONFOIA PA; Patterson, Robin L CIV OPNAV DNS 36 with copies to Garcia, Della W GS BUMED. See Dkt. No. 1, Complaint Ex. 3, at 18, 20, 21; Dkt.24-12, Ex B-11 at 3.
4. On May 27, 2014, I appealed to DHA’s Appellate Authority, Cygnarowicz, that Walter Reed had not answered my FOIA request at all, and then on September 29, 2014, I appealed Walter Reed’s subsequent unlawful claim of Exemption (b)(5) in withholding the record, (which is required by the FOIA statute and 2016 FOIA Improvement Act to be released to the Public!).
5. On December 8, 2014, DHA’s Agency Counsel Paul T. Cygnarowicz denied my administrative appeal for these records under Exemption 5^[6], and, therefore, had the actual Walter Reed FY 2013 FOIA processing log that Bizzell alleges that she sent to Navy BUMED as Walter Reed’s FY 2013 Annual FOIA Report submission.
6. During litigation, by email (on Jun 28, 2016 at 11:43 PM), DOJ Lead Counsel (Braswell) sent my attorney the Accused Parties’ **Vaughn Index** citing a 17-page Walter Reed FOIA Processing Log responsive to my April 1, 2014 FOIA request as being withheld under Exemption 5 (as originally claimed, but then also citing Exemption 6 for certain portions, falsely alleged to be only the names of FOIA requesters seeking medical records).
7. The Proposed Vaughn Index is alleged to have been prepared by Agency Counsel Paul T. Cygnarowicz, and he allegedly possess or possessed that 17-page FY 2013 Walter Reed FOIA Processing Log cited in the Vaughn Index, as does Bizzell.
8. Walter Reed’s FY 2013 FOIA Processing Log cited in Accused Parties’ June 28, 2016 Proposed Vaughn Index is static. A **true copy** of that record has allegedly not been released and may have been or may about to be destroyed.
9. Walter Reed’s FY 2013 FOIA Processing Log, as sent to and received by BUMED/ became a finalized report (PDF) when submitted. It is **static**. (As a data point to the approximate time the Log was sent, in 2012 Walter Reed’s Bizzell sent Walter Reed’s similar FY 2103 FOIA processing Log to Navy, Navy BUMED via email with attached PDF on October 1, 2013, one day after the close of the FY).
10. A **true** copy of Walter Reed’s, unaltered, static FY 2013 FOIA Processing Log, as sent to and received by BUMED has incontrovertibly and verifiably not ever been released. It is presumed destroyed or in imminent danger of being destroyed.
11. During litigation (citing my April 1, 2014 FOIA Request to Navy BUMED seeking all records of the FY 2013 Annual FOIA Report Submission for Walter Reed, Dkt. No. 12, Amended Complaint ¶ 56), Accused Parties removed their claim of withholding the Original FY 2013 Log cited as Walter Reed’s FY 2013 Annual Report to BUMED (“WRNMMC FOIA Office will no longer withhold from plaintiff [me] the FY 2013 FOIA Report Submission for Walter Reed.”).
12. By memo dated March 9, 2017, Bizzell then released a materially-altered 16-page Walter Reed FOIA Processing Log (with redactions for *fifty-three* cases, citing Exemption 6 and citing Exemption 7). See Attachment A, 16-Page Log with Dated Material Alterations. Bizzell concurrently provided that same record to then DOJ Lead Counsel, Marina Braswell, claiming that it is the Log that Walter Reed sent as its FY 2013 Annual FOIA Report submission to BUMED/OPNAV. “*The FY13 FOIA Log is the only relevant "raw data" record of numbers the WRNMMC FOIA Office sent to BUMED for inclusion into the Congressional Report. See*

Dkt. No. 26-1; *see also* Third Bizzell Decl. Section A. ¶ 11, 17; Dkt. Dkt. No. 26, Supplemental Motion for Summary Judgement, at 6, 8; Dkt. No. 24-12, Ex. B-11, at 1 ¶ 1.c. (report sent to BUMED). [available at Pacer.gov]

13. All the while, Bizzell, DOJ Lead Counsel (Braswell) and DHA's Agency Counsel (Paul Cygnarowicz) were purportedly in possession of the different 17-page Walter Reed FY 2013 FOIA Processing Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index (and evidently also Walter Reed's Original, unaltered FY 2013 Log in the case of Bizzell and Cygnarowicz).
14. On May 27, 2017, Bizzell then stated that she had removed her unlawful claim of Exemption (b) (7) entirely for Walter Reed's FY 2013 FOIA Processing Log as sent to/received by Navy BUMED/DONFOIA-PA and had reduced Exemption (b)(6) redactions from *fifty-three* cases to *fifteen* cases. Bizzell Third Decl., page 5. Footnote 2.^[7]
15. Accused Parties did not then release any Walter Reed FY 2013 FOIA Processing Log with Exemption (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases, as promised (after withdrawing their withholding under Exemptions (b)(5) and (b)(7). *See* Third Bizzell Decl. ¶ 9, footnote 2.
16. Then, on July 14, 2017, Judge Jackson ordered Accused Parties and me to appear on July 25, 2017 regarding records that Accused Parties falsely stated had been released but which had not released. Such records included Walter Reed's FY 2013 FOIA Processing Log, as sent to and received by BUMED/DONFOIA-PA with (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases. *See* Dkt. No 27; *see also* Dkt. No. 28 and Order of 7/14/2017.
17. On July 24, 2017 at 5:01 PM, just before that appearance, DOJ's Lead Counsel sent my Counsel a version of Walter Reed's FY 2013 FOIA Processing Log with content and blank rows or lines that is identical to the 16-page materially-altered March 9, 2016 Bizzell memo Log (*with none of the fifty-three redactions reduced*), with the only difference being that it is 17 pages, making it appear to be the 17-page Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index. Though Accused Parties purport it to be, this 17-page Log, by virtue of its identical dated material-alterations alone cannot possibly be Walter Reed's FY 2013 FOIA Processing Log as sent to and received by Navy BUMED as Walter Reed's Annual FOIA Report submission/raw data. With dated alterations 364 days after the close of FY 2013, it is not a log provided to anyone as Walter Reed's FY 2013 FOIA report submission.
18. In Court proceedings on 7/25/2017, DOJ Lead Counsel (accompanied DHA's Agency Counsel Paul Cygnarowicz) admitted that identical dated alterations had been made to **both** the 16-page March 9, 2016 Bizzell memo Log and the 17-page Log released the night of 7/24/2017 and that neither was Walter Reed's FY 2013 FOIA Processing Log as sent to and received by Navy BUMED as Walter Reed's Annual FOIA Report submission/raw data.
19. DOJ's Lead Counsel (supported by DHA's Agency Counsel Paul Cygnarowicz) further admitted in Court proceedings on 7/25/2017, (apart from the incontrovertible dated alterations), that Bizzell altered the Original Walter Reed FOIA Processing Log from 17-pages during litigation to produce the 16-page Log accompanying her Memo dated March 9, 2017.
20. **Again, after being caught, Bizzell admitted in her sworn declaration to altering during litigation** the (alleged) Original Walter Reed FOIA Processing Log from 17-pages to produce the 16-page Log accompanying her Memo dated March 9, 2017 and contends that the only difference to the Original Log, which has never been released is, (unbelievably): "The loss of a page was the result of **reformatting the font size to improve the FY13 FOIA Log's appearance.**" *See* Dkt. No. 26-1, Third Bizzell Decl. ¶ 8, sentence 8 and ¶ 7, sentence 4 (admissions of alterations).^[8]
21. In as much as Accused Parties have never released Walter Reed's **true**, unaltered, static FY 2013 FOIA Processing Log, as sent to and received by BUMED, I do not know the true page count of that record, whether it be 16-pages, 17-pages, or some other number.
22. I challenged that Bizzell had not produced a promised FY 2013 Log with redactions reduced from *fifty-three* exemption (b)(6) redactions to *fifteen* (as stated in her sworn declaration), and I opined (and Cygnarowicz is aware of this) that to do so Bizzell would have to: (a) again alter the 17-page version or the 16-page version already in evidence with dated alterations; or, (b) produce the actual, Original, unaltered Log that she states she submitted as Walter Reed's FY 2013 Annual

FOIA report to Navy, Navy BUMED without those dated alterations and make the reduced *fifteen* redactions to that Original unaltered Log.

23. Accused Parties then did not subsequently release any Walter Reed FY 2013 FOIA Processing Log with Exemption (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases, as promised (after withdrawing their withholding under Exemptions (b)(5) and (b)(7). See Third Bizzell Decla., ¶ 9, footnote 2.
24. Shortly thereafter, by coincidence or otherwise, DOJ’s Lead Counsel (Marina Braswell) (who had submitted records into evidence under her signature) withdrew from the case.

IV. APPLICABLE RETENTION SCHEDULE, NARA GRS 4.2 Item 20

020	<p>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</p>	<p>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.</p>	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 § 1230.3

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.)

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

With my respect,

/s/

Robert Hammond

January 31, 2021

Whistleblower

Attachments:

- A. 16-Page Log with Dated Material Alterations
- B. 17-Page Log with Dated Material Alterations

[1] A Vaughn Index is a document prepared by agencies that are opposing the disclosure of information under FOIA. The index must describe each document (or portion of each document) that has been withheld and provide a detailed justification of the agency's grounds for non-disclosure (i.e., the FOIA exemption relied upon must be stated). The term originates from the case of Vaughn v. Rosen [1]

Vaughn Indices are intended to permit a court "to make a rational decision [about] whether the withheld material must be produced without actually viewing the documents themselves." [2]

[2] Regardless of conflicting claims as to the records and to whom Bizzell may have given copies at some points in time, including during litigation. They are all federal records.

[3] Bizzell subsequently re-released the same materially-altered 17-page Log, stating only that it was a Log that she had previously released and had apparently given to DHA at some point in time.

[4] In the materially-altered Logs, there is a blank row at page 9 between the entries for requests 13-27 and 13-29 and there is no entry for request 13-28. There is a blank row at page 18 between requests 13-67 and 13-68. It

appears that content of some sort was removed with respect to the Vaughn Index Log and potentially the Original Log purportedly submitted to Navy.

[5] In contradiction to Bizzell's statement regarding no alterations other than a font size change, Accused Parties state in their Response that there was at least one other alteration "removal of an empty line to correct a numbering and spacing problem," See Dkt. No. 25-1 ¶¶ 54, 55. Bizzell did not state this. Bizzell stated under oath, "The loss of a page was the result of **reformatting the font size to improve the FY13 FOIA Log's appearance.**" Accused Parties have not released any such Log with a difference in the number of rows or "lines" from the 16-page Log to the 17-page Log due to a blank space. Cygnarowicz is evidently involved in entering known altered documents into evidence, while evidently possessing a copy of the unaltered record(s).

[6] There is no deliberative process in purely statistical reports and the information was antecedent when I sought this information, having already been incorporated into final reports. The FOIA Improvement Act of 2016 requires that Agencies proactively disclose the raw data used in compiling their reports.

Accused Parties have also not released the forwarding correspondence of Walter Reed's FY 2013 Annual FOIA Report Submission.

Accused Parties have also not released Walter Reed's 2nd, 3rd, and 4th Quarterly FOIA Reports submissions to BUMED/OPNAV, providing contemporaneous statistical data.

DOJ ordered these quarterly FOIA Reports a following a GAO audit of significant deficiencies in DOD's FOIA practices, including (among others): deficiencies in assignment of tracking numbers; reporting to DOJ; over-use of Exemptions (b)(5) and (b)(6); and other matters. See GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act at <http://www.gao.gov/products/GAO-12-828>.

[7] "Exemption (b) (6) was applied on the previously released FY13 FOIA Log to fifty-three requests for information. Having reviewed the FY13 FOIA Log again, I reduced Exemption (b) (6) redactions to only fifteen cases, those

which are requests for medical records, and, in an abundance of caution, those appearing to involve a request for medical records."

[8] While any alteration is a violation of law, a careful examination of both the 17-page Log and the 16-page log with respect to the text wrapping within each cell indicates that the difference is not as Bizzell states under oath as due to a font size change, but rather simply changing the page margins during printing after being caught. Also compare page margins. I believe that alterations from the Original Log are due to deletions of content and/or entire rows/lines. NARA should be wary of any records produced by Accused Parties and potential further false claims made about them. Further, the Original Log should not have any alterations after September 30, 2013, which is the close of FY 2013.

typo. RE: + Cygnarowicz. RE: IMPORTANCE HIGH. DHA and WALTER REED not Navy.RE: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report

(b) (6) via Unauthorized Disposition <UnauthorizedDisposition@nara.gov> Tue, Feb 2, 2021 at 1:33 PM
Reply to (b) (6)
To: UnauthorizedDisposition <unauthorizeddisposition@nara.gov>, Andrea Riley <andrea.riley@nara.gov>, GRS_Team <GRS_Team@nara.gov>, Jametta Davis <UnauthorizedDisposition@nara.gov>
Cc: (b) (6)

Typo correction. Sorry.

Change from:

“He has admitted to seeing the Vaughn Index Log (if he in fact did not personally produce it)”

To:

“He has admitted to seeing the Vaughn Index Log (if he in fact did not personally produce the Vaughn Index (not the Log.)”

Thx.

From: (b) (6)
Sent: Tuesday, February 2, 2021 12:09 PM
To: 'Unauthorized Disposition' <unauthorizeddisposition@nara.gov>; 'Andrea Riley' <andrea.riley@nara.gov>; 'GRS Team' <GRS_Team@nara.gov>; 'Jametta Davis' <UnauthorizedDisposition@nara.gov>
Cc: (b) (6)
Subject: + Cygnarowicz. RE: IMPORTANCE HIGH. DHA and WALTER REED not Navy.RE: NARA Complaint. Alteration & Destruction of Record ICO Walter Reed' FY 2013 FOIA Report

Thank you very much for your prompt reply.

Please examine carefully DHA's Deputy General Counsel Paul T. Cygnarowicz' role in (potentially) submitting known materially-altered records into evidence, and potentially more. He personally acted on my 2014 administrative appeals seeking the records

He has admitted to seeing the Vaughn Index Log (if he in fact did not personally produce it), and to his knowledge of resultant 16-page to 17-page count alterations (to that or another Log) during court proceedings. Unlawful in my view as a layperson. Don't know the actual page count of the Vaughn Index log cited as 17-pages, which is a record that should be produced to NARA.

It is not unthinkable, in my opinion, that he may have advised Bizzell how to respond to the page count differences (once caught) and potentially how to produce a 17-page Log to enter into evidence with identical dated alterations to the 16-page Log. Neither Log is a Log that existed at the time of my FOIA request or appeal, based on dated alterations through September 29, 2014 alone. When each litigation evidence Log was produced, how (and by whom) are germane to unravelling this matter.

Without addressing the dated alterations in the Logs placed into evidence, and while denying culpability, Cygnarowicz has asserted outside of litigation:

- 1 "And even had the Agency falsified or otherwise altered document , if that happened pre litigation, Mr Cygnarowicz—as FOIA agency counsel— did not create or alter any documents the Agency produced to Hammond."
2. Further, "Hypothetically, if any alteration occurred after Hammond sued, Mr. Cygnarowicz's role during that period was to act as the liaison between the Assistant United States Attorney handling the litigation for the Agency and the Agency."

This stinks In my opinion, rat deserting a sinking ship to leave other lower level folks like poor Ms Bizzell (presumably GS-11) holding the bag alone. Worse yet, Cygnarowicz is a high-ranking, field grade Reservist Military Officer, which offends me

In my view, potentially with proper advice from Counsel, this may have all ended in 2014 without anyone getting into trouble Very sad

With my respect,

Robert Hammond

From: UnauthorizedDisposition <unauthorizeddisposition@nara.gov>
Sent: Monday, February 1, 2021 3:49 PM
To: [REDACTED]; Andrea Riley andrea.riley@nara.gov ; GRS Team GRS_Team@nara.gov
Subject: Re: IMPORTANCE HIGH. DHA and WALTER REED not Navy.RE: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report

Good afternoon,

NARA is aware that this issue is separate from the ongoing case with the Navy. Thanks.

NARA

Oversight and Reporting Team

On Mon, Feb 1, 2021 at 3:37 PM (b) (6) via Unauthorized Disposition <UnauthorizedDisposition@nara.gov> wrote:

Ms. Davis and NARA unauthorized disposition staff,

This is a completely different matter, separate from Navy, involving alteration of records during litigation by Walter Reed and DHA and further destruction of records.

Please promptly confirm that you are not combining these distinctly different Complaints against different agencies with different allegations.

Pls see below

I. ALLEGATION.

I am alleging that:

1. The Walter Reed National Military Medical Center (“Walter Reed” or “WRNMMC”) FOIA Officer, **Judy J. Bizzell**, and/or others, materially altered multiple times & multiple copies of a document sought under FOIA and other subsequent federal record litigation evidentiary versions both prior to and **ADMITTEDLY** during litigation, and Defense Health Agency (“DHA”) **Agency Counsel Paul T. Cygnarowicz** allegedly had knowledge of those alterations, but nevertheless entered altered documents (which are also official records) into evidence, participating in such alleged malfeasance.
2. Original records and official federal record litigation evidentiary copies may have been destroyed or may be in imminent danger of being destroyed.

Federal entities (a) Walter Reed and (b) DHA, and no other entities, and employees (1) Bizzell and (2) Cygnarowicz are “Accused Parties” for the purpose of this narrow complaint (not to be combined with any other complaint) While Walter Reed is currently a subordinate entity of DHA, they each have their own accountable records officers/managers.

Thank you in advance for your integrity and perseverance.

With my respect,

Robert Hammond

Whistleblower

From: Jametta Davis <UnauthorizedDisposition@nara.gov>
Sent: Monday, February 1, 2021 2:20 PM
To: (b) (6)
Subject: Re: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report

Dear Mr. Hammond,

Thank you for providing the additional information. We are continuing to work with the Navy to get this matter resolved.

On Mon, Feb 1, 2021 at 8:04 AM (b) (6) via Unauthorized Disposition <UnauthorizedDisposition@nara.gov> wrote:

(Best Viewed as HTML. Thx.)

Pls see below and the complete PDF complaint with footnotes and attachments, "NARA Complaint. Alteration & Destruction of Records ICO Walter Reed FY 2013 FOIA Report w. attach.pdf." A soft copy of Complaint narrative is also attached to assist you.

Thank you in advance for your integrity and perseverance.

With my respect,

Robert Hammond

Whistleblower

January 31, 2021

NARA Complaint. Alteration & Destruction of Records
ICO Walter Reed's FY 2013 FOIA Report

I. ALLEGATION.

I am alleging that:

- 1 The Walter Reed National Military Medical Center (“Walter Reed” or “WRNMMC”) FOIA Officer, **Judy J. Bizzell**, and/or others, materially altered multiple times & multiple copies of a document sought under FOIA and other subsequent federal record litigation evidentiary versions both prior to and **ADMITTEDLY** during litigation, and Defense Health Agency (“DHA”) **Agency Counsel Paul T. Cygnarowicz** allegedly had knowledge of those alterations, but nevertheless entered altered documents (which are also official records) into evidence, participating in such alleged malfeasance
2. Original records and official federal record litigation evidentiary copies may have been destroyed or may be in imminent danger of being destroyed

Federal entities (a) Walter Reed and (b) DHA, and no other entities, and employees (1) Bizzell and (2) Cygnarowicz are “Accused Parties” for the purpose of this narrow complaint (not to be combined with any other complaint). While Walter Reed is currently a subordinate entity of DHA, they each have their own accountable records officers/managers.

Given that multiple of the named Accused Parties purportedly possessed copies of subject records during litigation, each record copy is therefore its own evidentiary federal record and must be accounted for and addressed as to alterations.

Walter Reed and DHA have made multiple materially false and conflicting statements and inaccurate submissions to the Court regarding these records, heightening the likelihood of ongoing and/or further records destruction. Absent NARA’s intervention, there is a high likelihood that records that have not already been destroyed will imminently be destroyed by Accused Parties. *“Oh what a tangled web we weave when first we practice to deceive.”*

Only the actual production to NARA of each cited record by each Accused Party will suffice as proof that each record has not been destroyed.

As to citations in this complaint to District Court of Colombia in Civil Action No. 16-421 (KBJ) documents, Accused Parties hold those records, and they are also available from Pacert.gov.

II. ACTION SOUGHT.

1. Notify: (1) DHA and (2) 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. Promptly affirm the uncontroverted and admitted alteration of records. State in your findings exactly which record copies were altered (e.g., Original FY 2013 Walter Reed FOIA Processing Log as it existed at the time it was submitted as Walter Reed’s FY 2013 Annual report, allegedly to Navy, Navy BUMED), who made each alteration, and when each alteration was made.
5. Affirm that DHA Agency Counsel Cygnarowicz was aware of material alterations, but nevertheless entered altered documents into evidence thru DOJ counsels. Cygnarowicz has stated that he reviewed DOJ documents prior to submission to the Court, and record evidence appears to

document that he was fully aware of the alterations prior to doing so (and may have communicated with Bizzell regarding same). He is also believed to have prepared DHA's Vaughn Index^[1] citing a 17-page Log prior to the materially-altered 16-page Log being released by Bizzell (as discussed below). Any participation in placing known altered documents into Court records must be documented. There is no Attorney-Client privilege or shield regarding such participation in alleged malfeasance.

6. If any records have not been destroyed, seek that each Accused Party provide to you each specifically enumerated record/record set in their possession, identifying by name who held the record, along with a record count and page number count for each record to prove their existence. Absent the Accused Parties producing each specifically enumerated record/record set for your verification to prove their existence, NARA will likely be mis-lead. 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.

The records in question are the Original record of Walter Reed's FY 2013 FOIA processing log that I sought via FOIA on or about April 1, 2014 that Bizzell alleges that she sent to Navy, Navy/BUMED as Walter Reed's FY 2013 Annual FOIA Report Submission (along with the forwarding correspondence thereto) and other subsequent federal record evidentiary versions of that same Original record ^[2] See below.

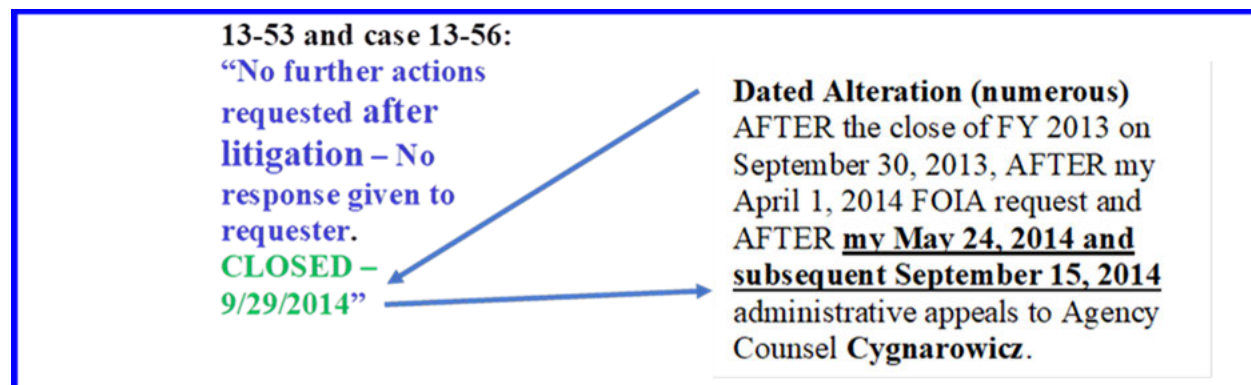
Alterations. Accused Parties Individually and/or Collectively, et. al:

1. First, Bizzell **altered both** a 16-page version and a 17-page version of the alleged Original record to produce two altered records during court proceedings with identical, multiple dated alterations (in the "Comment" column) after my April 1, 2014 FOIA request, after my May 27, 2014 and subsequent September 15, 2014 administrative appeals, and nearly a full year after the close of FY 2013 on September 30, 2013. Even these incontrovertible alterations of the Original record may have occurred during litigation, which began on March 3, 2016.
2. Second, Bizzell **also admits to altering, during litigation**, a 17-page Log (cited in a Vaughn Index or the Original, unaltered Log, if different) to produce the 16-page Log cited above. Note, the page count of the Original, unaltered record (a **true** copy of which has never been produced) is unknown by me, such that it is not clear which Log was altered to produce the materially-altered 16-page Log.

I challenged that Bizzell had not produced a promised FY 2013 Log with redactions reduced from *fifty-three* exemption (b)(6) redactions to *fifteen* (as stated in her sworn declaration), and I opined (and Cygnarowicz is aware of this) that to do so Bizzell would have to: (a) again alter the 17-page version or the 16-page version already in evidence with dated alterations; or, (b) produce the actual, Original, unaltered Log that she states she submitted as Walter Reed's FY 2013 Annual FOIA report to Navy, Navy BUMED without those dated alterations and make the reduced *fifteen* redactions to that Original unaltered Log. Bizzell and Accused Parties then refused to release any Log with redactions reduced to *fifteen*. Shortly thereafter, by coincidence or otherwise, DOJ's Lead Counsel (Marina Braswell) (who had submitted records into evidence under her signature) withdrew from the case.^[3]

Bizzell first released a materially altered 16 page version of the alleged Original Log (and that version contained dated alterations such that it cannot be the Original Log), and then she released a 17-page version of that very same 16 page log containing the same dated alterations

Both records produced contain identical multiple dated alterations in the “Comment” column after my April 1, 2014 FOIA request, after my May 27, 2014 and subsequent September 15, 2014 administrative appeals to DHA’s Cygnarowicz, and nearly a full year after the close of FY 2013 on September 30, 2013 Neither, therefore, can be the Original Log See Attachment A, 16 Page Log with Dated Material Alterations and Attachment B, 17-Page Log with Dated Material Alterations. For example, see identical comments to Walter Reed’s FY 2013 FOIA Log case 13 53 and case 13 56 (involving my own (Robert Hammond) 2013 FOIA requests) with alterations dated **September 29, 2014**, stating, “*No further actions requested after litigation No response given to requester CLOSED 9/29/2014*” Not only is September 29, 2014 after my May 27, 2014 and subsequent September 15, 2014 administrative appeals to DHA’s Cygnarowicz, the instant “litigation” was not filed until two years later on April 3, 2016, raising questions as to when the alterations above citing “*after litigation*” were made. See below:



Both Logs also have evident alterations, deletions within rows/and or deletions of entire rows.^[4]

Bizzell admits under oath to altering the original FY 2013 FOIA processing log to produce a 16 page Log that differed from the 17- page Log cited in Defendant’s Vaughn Index, although her account and that of Agency counsel(s) are at odds as to the extent of the alterations.^[5]

Destruction of Records. Accused Parties Individually and/or Collectively, et. al

Bizzell and Agency Counsel Cygnarowicz, et al., may have also unlawfully destroyed the following **6** specific records (which have never been produced in court); or they may be in imminent danger of being destroyed:

1. the Original Walter Reed FY 2013 FOIA Processing Log as it existed when submitted as Walter Reed's FY 2013 Annual FOIA report, *purportedly* to Navy, Navy BUMED (page count unknown by me);
2. the forwarding correspondence to the Walter Reed FY 2013 FOIA Processing Log sent to Department of Navy (*presumed* to be an email from Bizzell with potentially multiple copy-to addressees (such as BUMED's Della Garcia and Navy's DONFOIA-PA office personnel (e.g., Robin Patterson)) and containing Walter Reed's FY 2013 FOIA Processing Log as a PDF attachment);
3. the forwarding correspondence to the Walter Reed FY 2013 FOIA Processing Log potentially **also** sent to DHA (likely Nadine Brown) in addition to Navy (*presumed* to be an email from Bizzell with potentially multiple copy-to addressees and containing Walter Reed's FY 2013 FOIA Processing Log as an attachment);
4. the Walter Reed FY 2013 FOIA Processing Log as it existed at the time of my April 1, 2014 FOIA Request (*purportedly* the Original);
5. the Walter Reed FY 2013 FOIA Processing Log as it existed when DHA's Cygnarowicz reviewed my September 15, 2014 administrative appeal and upheld the Agency's unlawful withholding under Exemption 5.
6. the 17-page Vaughn Index Walter Reed FY 2013 FOIA Processing Log cited by Accused Parties (who later removed their claim of withholding the record under Exemption 5, clearing its release (with only *fifteen* exemption (b)(6) redactions)).

Background.

1. On or about April 1, 2014, I submitted a FOIA request to the Department of Navy BUMED seeking all records and raw data of the Fiscal Year ("FY") 2013 Annual FOIA Report submissions for Walter Reed as received by BUMED. See Dkt. No. 1, Complaint Ex. 3, at 20, 21.
2. My FOIA request also seeks the forwarding correspondence of Walter Reed's FY 2013 Annual FOIA Report Submission, (*presumably* sent by email from Walter Reed's FOIA Officer (Bizzell) to BUMED [and to OPNAV DNS 36, DONFIA PA Office personnel] with the FY 2013 FOIA Processing Log as a PDF attachment).
3. On or about April 15, 2014 Navy BUMED referred my FOIA Request to Walter Reed. All the while, BUMED was getting quarterly statistical FOIA reports from Walter Reed, which were sent to DONFOIA PA; Patterson, Robin L CIV OPNAV DNS 36 with copies to Garcia, Della W GS BUMED. See Dkt. No. 1, Complaint Ex. 3, at 18, 20, 21; Dkt.24-12, Ex B-11 at 3.
4. On May 27, 2014, I appealed to DHA's Appellate Authority, Cygnarowicz, that Walter Reed had not answered my FOIA request at all, and then on September 29, 2014, I appealed Walter Reed's subsequent unlawful claim of Exemption (b)(5) in withholding the record, (which is required by the FOIA statute and 2016 FOIA Improvement Act to be released to the Public!).
5. On December 8, 2014, DHA's Agency Counsel Paul T. Cygnarowicz denied my administrative appeal for these records under Exemption 5^[6], and, therefore, had the actual Walter Reed FY 2013 FOIA processing log that Bizzell alleges that she sent to Navy BUMED as Walter Reed's FY 2013 Annual FOIA Report submission.
6. During litigation, by email (on Jun 28, 2016 at 11:43 PM), DOJ Lead Counsel (Braswell) sent my attorney the Accused Parties' **Vaughn Index** citing a 17-page Walter Reed FOIA Processing Log responsive to my April 1, 2014 FOIA request as being withheld under Exemption 5 (as originally claimed, but then also citing Exemption 6 for certain portions, falsely alleged to be only the names of FOIA requesters seeking medical records).
7. The Proposed Vaughn Index is alleged to have been prepared by Agency Counsel Paul T. Cygnarowicz, and he allegedly possess or possessed that 17-page FY 2013 Walter Reed FOIA Processing Log cited in the Vaughn Index, as does Bizzell.

8. Walter Reed's FY 2013 FOIA Processing Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index is static. A **true copy** of that record has allegedly not been released and may have been or may about to be destroyed.
9. Walter Reed's FY 2013 FOIA Processing Log, as sent to and received by BUMED/ became a finalized report (PDF) when submitted. It is **static**. (As a data point to the approximate time the Log was sent, in 2012 Walter Reed's Bizzell sent Walter Reed's similar FY 2103 FOIA processing Log to Navy, Navy BUMED via email with attached PDF on October 1, 2013, one day after the close of the FY).
10. A **true** copy of Walter Reed's, unaltered, static FY 2013 FOIA Processing Log, as sent to and received by BUMED has incontrovertibly and verifiably not ever been released. It is presumed destroyed or in imminent danger of being destroyed.
11. During litigation (citing my April 1, 2014 FOIA Request to Navy BUMED seeking all records of the FY 2013 Annual FOIA Report Submission for Walter Reed, Dkt. No. 12, Amended Complaint ¶ 56), Accused Parties removed their claim of withholding the Original FY 2013 Log cited as Walter Reed's FY 2013 Annual Report to BUMED ("WRNMMC FOIA Office will no longer withhold from plaintiff [me] the FY 2013 FOIA Report Submission for Walter Reed.").
12. By memo dated March 9, 2017, Bizzell then released a materially-altered 16-page Walter Reed FOIA Processing Log (with redactions for *fifty-three* cases, citing Exemption 6 and citing Exemption 7). *See* Attachment A, 16-Page Log with Dated Material Alterations. Bizzell concurrently provided that same record to then DOJ Lead Counsel, Marina Braswell, claiming that it is the Log that Walter Reed sent as its FY 2013 Annual FOIA Report submission to BUMED/OPNAV. "*The FY13 FOIA Log is the only relevant "raw data" record of numbers the WRNMMC FOIA Office sent to BUMED for inclusion into the Congressional Report. See* Dkt. No. 26-1; *see also* Third Bizzell Decl. Section A. ¶ 11, 17; Dkt. No. 26, Supplemental Motion for Summary Judgement, at 6, 8; Dkt. No. 24-12, Ex. B-11, at 1 ¶ 1.c. (report sent to BUMED). [available at Pacer.gov]
13. All the while, Bizzell, DOJ Lead Counsel (Braswell) and DHA's Agency Counsel (Paul Cygnarowicz) were purportedly in possession of the different 17-page Walter Reed FY 2013 FOIA Processing Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index (and evidently also Walter Reed's Original, unaltered FY 2013 Log in the case of Bizzell and Cygnarowicz).
14. On May 27, 2017, Bizzell then stated that she had removed her unlawful claim of Exemption (b) (7) entirely for Walter Reed's FY 2013 FOIA Processing Log as sent to/received by Navy BUMED/DONFOIA-PA and had reduced Exemption (b)(6) redactions from *fifty-three* cases to *fifteen* cases. Bizzell Third Decl., page 5. Footnote 2.^[7]
15. Accused Parties did not then release any Walter Reed FY 2013 FOIA Processing Log with Exemption (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases, as promised (after withdrawing their withholding under Exemptions (b)(5) and (b)(7)). *See* Third Bizzell Decl. ¶ 9, footnote 2.
16. Then, on July 14, 2017, Judge Jackson ordered Accused Parties and me to appear on July 25, 2017 regarding records that Accused Parties falsely stated had been released but which had not released. Such records included Walter Reed's FY 2013 FOIA Processing Log, as sent to and received by BUMED/DONFOIA-PA with (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases. *See* Dkt. No 27; *see also* Dkt. No. 28 and Order of 7/14/2017.
17. On July 24, 2017 at 5:01 PM, just before that appearance, DOJ's Lead Counsel sent my Counsel a version of Walter Reed's FY 2013 FOIA Processing Log with content and blank rows or lines that is identical to the 16-page materially-altered March 9. 2016 Bizzell memo Log (*with none of the fifty-three redactions reduced*), with the only difference being that it is 17 pages, making it appear to be the 17-page Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index. Though Accused Parties purport it to be, this 17-page Log, by virtue of its identical dated material-alterations alone cannot possibly be Walter Reed's FY 2013 FOIA Processing Log as sent to and received by Navy BUMED as Walter Reed's Annual FOIA Report submission/raw data. With dated alterations 364 days after the close of FY 2013, it is not a log provided to anyone as Walter Reed's FY 2013 FOIA report submission.

18. In Court proceedings on 7/25/2017, DOJ Lead Counsel (accompanied DHA's Agency Counsel Paul Cygnarowicz) admitted that identical dated alterations had been made to **both** the 16-page March 9, 2016 Bizzell memo Log and the 17-page Log released the night of 7/24/2017 and that neither was Walter Reed's FY 2013 FOIA Processing Log as sent to and received by Navy BUMED as Walter Reed's Annual FOIA Report submission/raw data.
19. DOJ's Lead Counsel (supported by DHA's Agency Counsel Paul Cygnarowicz) further admitted in Court proceedings on 7/25/2017, (apart from the incontrovertible dated alterations), that Bizzell altered the Original Walter Reed FOIA Processing Log from 17-pages during litigation to produce the 16-page Log accompanying her Memo dated March 9, 2017.
20. **Again, after being caught, Bizzell admitted in her sworn declaration to altering during litigation** the (alleged) Original Walter Reed FOIA Processing Log from 17-pages to produce the 16-page Log accompanying her Memo dated March 9, 2017 and contends that the only difference to the Original Log, which has never been released is, (unbelievably): "The loss of a page was the result of **reformatting the font size to improve the FY13 FOIA Log's appearance.**" See Dkt. No. 26-1, Third Bizzell Decl. ¶ 8, sentence 8 and ¶ 7, sentence 4 (admissions of alterations).^[8]
21. In as much as Accused Parties have never released Walter Reed's **true**, unaltered, static FY 2013 FOIA Processing Log, as sent to and received by BUMED, I do not know the true page count of that record, whether it be 16-pages, 17-pages, or some other number.
22. I challenged that Bizzell had not produced a promised FY 2013 Log with redactions reduced from *fifty-three* exemption (b)(6) redactions to *fifteen* (as stated in her sworn declaration), and I opined (and Cygnarowicz is aware of this) that to do so Bizzell would have to: (a) again alter the 17-page version or the 16-page version already in evidence with dated alterations; or, (b) produce the actual, Original, unaltered Log that she states she submitted as Walter Reed's FY 2013 Annual FOIA report to Navy, Navy BUMED without those dated alterations and make the reduced *fifteen* redactions to that Original unaltered Log.
23. Accused Parties then did not subsequently release any Walter Reed FY 2013 FOIA Processing Log with Exemption (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases, as promised (after withdrawing their withholding under Exemptions (b)(5) and (b)(7). See Third Bizzell Decla., ¶ 9, footnote 2.
24. Shortly thereafter, by coincidence or otherwise, DOJ's Lead Counsel (Marina Braswell) (who had submitted records into evidence under her signature) withdrew from the case.

IV. APPLICABLE RETENTION SCHEDULE, NARA GRS 4.2 Item 20

020	<p>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</p>	<p>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.</p>	<p>DAA-GRS-2016-0002-0001</p>
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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 § 1230.3

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.)

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

With my respect,

/s/

Robert Hammond

January 31, 2021

Whistleblower

Attachments:

- A. 16-Page Log with Dated Material Alterations
- B. 17-Page Log with Dated Material Alterations

[1] A Vaughn Index is a document prepared by agencies that are opposing the disclosure of information under FOIA. The index must describe each document (or portion of each document) that has been withheld and provide a detailed justification of the agency's grounds for non-disclosure (i.e., the FOIA exemption relied upon must be stated). The term originates from the case of Vaughn v. Rosen [1]

Vaughn Indices are intended to permit a court "to make a rational decision [about] whether the withheld material must be produced without actually viewing the documents themselves." [2]

[2] Regardless of conflicting claims as to the records and to whom Bizzell may have given copies at some points in time, including during litigation. They are all federal records.

[3] Bizzell subsequently re-released the same material y-altered 17-page Log, stating only that it was a Log that she had previously released and had apparently given to DHA at some point in time.

[4] In the materially-altered Logs, there is a blank row at page 9 between the entries for requests 13-27 and 13-29 and there is no entry for request 13-28. There is a blank row at page 18 between requests 13-67 and 13-68. It appears that content of some sort was removed with respect to the Vaughn Index Log and potentially the Original Log purportedly submitted to Navy.

[5] In contradiction to Bizzell's statement regarding no alterations other than a font size change, Accused Parties state in their Response that there was at least one other alteration "removal of an empty line to correct a numbering and spacing problem," See Dkt. No. 25-1 ¶¶ 54, 55. Bizzell did not state this. Bizzell stated under oath, "The loss of a page was the result of **reformatting the font size to improve the FY13 FOIA Log's appearance.**" Accused Parties have not released any such Log with a difference in the number of rows or "lines" from the 16-page Log to the 17-page Log due to a blank space. Cygnarowicz is evidently involved in entering known altered documents into evidence, while evidently possessing a copy of the unaltered record(s).

[6] There is no deliberative process in purely statistical reports and the information was antecedent when I sought this information, having already been incorporated into final reports. The FOIA Improvement Act of 2016 requires that Agencies proactively disclose the raw data used in compiling their reports.

Accused Parties have also not released the forwarding correspondence of Walter Reed's FY 2013 Annual FOIA Report Submission.

Accused Parties have also not released Walter Reed's 2nd, 3rd, and 4th Quarterly FOIA Reports submissions to BUMED/OPNAV, providing contemporaneous statistical data.

DOJ ordered these quarterly FOIA Reports a following a GAO audit of significant deficiencies in DOD's FOIA practices, including (among others): deficiencies in assignment of tracking numbers; reporting to DOJ; over-use of Exemptions (b)(5) and (b)(6); and other matters. See GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act at <http://www.gao.gov/products/GAO-12-828>.

[7] "Exemption (b) (6) was applied on the previously released FY13 FOIA Log to fifty-three requests for information. Having reviewed the FY13 FOIA Log again, I reduced Exemption (b) (6) redactions to only fifteen cases, those

which are requests for medical records, and, in an abundance of caution, those appearing to involve a request for medical records."

[8] While any alteration is a violation of law, a careful examination of both the 17-page Log and the 16-page log with respect to the text wrapping within each cell indicates that the difference is not as Bizzell states under oath as due to a font size change, but rather simply changing the page margins during printing after being caught. Also compare page margins. I believe that alterations from the Original Log are due to deletions of content and/or entire rows/lines. NARA should be wary of any records produced by Accused Parties and potential further false claims made about

them. Further, the Original Log should not have any alterations after September 30, 2013, which is the close of FY 2013.

RRowan??+RE: typo. RE: + Cygnarowicz. RE: IMPORTANCE HIGH. DHA and WALTER REED not Navy.RE: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report

1 message

(b) (6) via Unauthorized Disposition UnauthorizedDisposition@nara.gov Sat, Feb 6, 2021 at 5 59 PM
Reply-to: (b) (6)
To: UnauthorizedDisposition <unauthorizeddisposition@nara.gov>
Cc: (b) (6)

NARA Unauthorized Disposition Team,

With my deep respect...

As to when the 17-page Log was created and by whom, I am sending you the original PDF sent to my attorney by DOJ's **Bra well, Marina (USADC)** [Marina Bra_well@u.doj.gov](mailto:Marina.Bra_well@u.doj.gov) at Date Mon, Jul 24, 2017 at 5 01 PM, showing in the document File > Properties that it was created after the Bizzell March 9, 2017 16-page log:

By: RRowan
On: Created 7/24/2017 3:18.01 PM
From: Microsoft Word - WRNMMC FY 13 FOIA PROCESSING LOG (redacted - B6 Only).docx

Please include these facts in your analysis as to the two materially-altered Logs. Pls ascertain the source records held by RRowan in creating the 17-page PDF and said person's role. Again the PDF source record is a Microsoft Word document, whereas the Original Log may have been created from MS Excel

/

1. I am still concerned that Walter Reed and DHA record officer will be misled and that NARA will be misled
2. May I ask that you will confirm that I will have an opportunity to review your finding and/or the Agency's response before you issue a final decision on the matters?
3. May I ask if a case number has been established, and if so what it is.

Thank you.

With my respect,

Robert Hammond

From (b) (6)
Sent: Tuesday, February 2, 2021 1:33 PM
To: 'UnauthorizedDisposition' <unauthorizeddisposition@nara.gov>; 'Andrea Riley' <andrea.riley@nara.gov>; 'GRS Team' <GRS_Team@nara.gov>; 'Jametia Davis' <UnauthorizedDisposition@nara.gov>
Cc (b) (6)
Subject: typo. RE: + Cygnarowicz. RE: IMPORTANCE HIGH. DHA and WALTER REED not Navy.RE: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report

Typo correction Sorry

Change from:

“He has admitted to seeing the Vaughn Index Log (if he in fact did not personally produce it)”,

To:

“He has admitted to seeing the Vaughn Index Log (if he in fact did not personally produce the Vaughn Index (not the Log.)”

Thx

From (b) (6)
Sent: Tuesday, February 2, 2021 12:09 PM
To: 'UnauthorizedDisposition' <unauthorizeddisposition@nara.gov>; 'Andrea Riley' <andrea.riley@nara.gov>; 'GRS Team' <GRS_Team@nara.gov>; 'Jametia Davis' <UnauthorizedDisposition@nara.gov>
Cc (b) (6)
Subject: + Cygnarowicz. RE: IMPORTANCE HIGH. DHA and WALTER REED not Navy.RE: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report

Thank you very much for your prompt reply

Please examine carefully DHA's Deputy General Counsel Paul T. Cygnarowicz' role in (potentially) submitting known materially altered records into evidence, and potentially more He personally acted on my 2014 administrative appeals seeking the records.

He has admitted to seeing the Vaughn Index Log (if he in fact did not personally produce it), and to his knowledge of resultant 16-page to 17-page count alterations (to that or another Log) during court proceedings Unlawful in my view as a layperson Don't know the actual page count of the Vaughn Index log cited as 17-pages, which is a record that should be produced to NARA.

NARA-NGC21-710-00752

It is not unthinkable, in my opinion, that he may have advised Bizzell how to respond to the page count differences (once caught) and potentially how to produce a 17-page Log to enter into evidence with identical dated alterations to the 16-page Log. Neither Log is a Log that existed at the time of my FOIA request or appeal, based on dated alterations through September 29, 2014 alone. When each litigation evidence Log was produced, how (and by whom) are germane to unravelling this matter.

Without addressing the dated alterations in the Logs placed into evidence, and while denying culpability, Cygnarowicz has asserted outside of litigation:

- 1 "And even had the Agency falsified or otherwise altered document , if that happened pre litigation, Mr Cygnarowicz—as FOIA agency counsel— did not create or alter any documents the Agency produced to Hammond."
2. Further, "Hypothetically, if any alteration occurred after Hammond sued, Mr. Cygnarowicz's role during that period was to act as the liaison between the Assistant United States Attorney handling the litigation for the Agency and the Agency."

This stinks In my opinion, rat deserting a sinking ship to leave other lower level folks like poor Ms Bizzell (presumably GS-11) holding the bag alone. Worse yet, Cygnarowicz is a high-ranking, field grade Reservist Military Officer, which offends me

In my view, potentially with proper advice from Counsel, this may have all ended in 2014 without anyone getting into trouble Very sad

With my respect,

Robert Hammond

From: UnauthorizedDisposition <unauthorizeddisposition@nara.gov>
Sent: Monday, February 1, 2021 3:49 PM
To: (b) (6); Andrea Riley andrea.riley@nara.gov; GRS Team GRS_Team@nara.gov
Subject: Re: IMPORTANCE HIGH. DHA and WALTER REED not Navy.RE: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report

Good afternoon,

NARA is aware that this issue is separate from the ongoing case with the Navy. Thanks.

NARA

Oversight and Reporting Team

NARA-NGC21-710-00753

Ms. Davis and NARA unauthorized disposition staff,

This is a completely different matter, separate from Navy, involving alteration of records during litigation by Walter Reed and DHA and further destruction of records.

Please promptly confirm that you are not combining these distinctly different Complaints against different agencies with different allegations.

Pls see below.

I. ALLEGATION.

I am alleging that:

1. The Walter Reed National Military Medical Center (“Walter Reed” or “WRNMMC”) FOIA Officer, **Judy J. Bizzell**, and/or others, materially altered multiple times & multiple copies of a document sought under FOIA and other subsequent federal record litigation evidentiary versions both prior to and **ADMITTEDLY** during litigation, and Defense Health Agency (“DHA”) **Agency Counsel Paul T. Cygnarowicz** allegedly had knowledge of those alterations, but nevertheless entered altered documents (which are also official records) into evidence, participating in such alleged malfeasance.
2. Original records and official federal record litigation evidentiary copies may have been destroyed or may be in imminent danger of being destroyed.

Federal entities (a) Walter Reed and (b) DHA, and no other entities, and employees (1) Bizzell and (2) Cygnarowicz are “Accused Parties” for the purpose of this narrow complaint (not to be combined with any other complaint). While Walter Reed is currently a subordinate entity of DHA, they each have their own accountable records officers/managers.

Thank you in advance for your integrity and perseverance.

With my respect,

Robert Hammond

Whistleblower

From: Jametta Davis <UnauthorizedDisposition@nara.gov>

Sent: Monday, February 1, 2021 2:20 PM

To: (b) (6)

Subject: Re: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed’s FY 2013 FOIA Report

Dear Mr. Hammond,

Thank you for providing the additional information. We are continuing to work with the Navy to get this matter resolved.

On Mon, Feb 1, 2021 at 8:04 AM (b) (6) via Unauthorized Disposition <UnauthorizedDisposition@nara.gov> wrote:

(Best Viewed as HTML. Thx.)

Pls see below and the complete PDF complaint with footnotes and attachments, "NARA Complaint. Alteration & Destruction of Records ICO Walter Reed FY 2013 FOIA Report w. attach.pdf." A soft copy of Complaint narrative is also attached to assist you.

Thank you in advance for your integrity and perseverance.

With my respect,

Robert Hammond

Whistleblower

January 31, 2021

NARA Complaint. Alteration & Destruction of Records
ICO Walter Reed's FY 2013 FOIA Report

I. ALLEGATION.

I am alleging that:

1. The Walter Reed National Military Medical Center ("Walter Reed" or "WRNMMC") FOIA Officer, **Judy J. Bizzell**, and/or others, materially altered multiple times & multiple copies of a document sought under FOIA and other subsequent federal record litigation evidentiary versions both prior to and **ADMITTEDLY** during litigation, and Defense Health Agency ("DHA") **Agency Counsel Paul T. Cygnarowicz** allegedly had knowledge of those alterations, but

nevertheless entered altered documents (which are also official records) into evidence, participating in such alleged malfeasance.

- 2 Original records and official federal record litigation evidentiary copies may have been destroyed or may be in imminent danger of being destroyed.

Federal entities (a) Walter Reed and (b) DHA, and no other entities, and employees (1) Bizzell and (2) Cygnarowicz are “Accused Parties” for the purpose of this narrow complaint (not to be combined with any other complaint). While Walter Reed is currently a subordinate entity of DHA, they each have their own accountable records officers/managers.

Given that multiple of the named Accused Parties purportedly possessed copies of subject records during litigation, each record copy is therefore its own evidentiary federal record and must be accounted for and addressed as to alterations.

Walter Reed and DHA have made multiple materially false and conflicting statements and inaccurate submissions to the Court regarding these records, heightening the likelihood of ongoing and/or further records destruction. Absent NARA’s intervention, there is a high likelihood that records that have not already been destroyed will imminently be destroyed by Accused Parties. *“Oh what a tangled web we weave when first we practice to deceive.”*

Only the actual production to NARA of each cited record by each Accused Party will suffice as proof that each record has not been destroyed.

As to citations in this complaint to District Court of Columbia in Civil Action No. 16-421 (KBJ) documents, Accused Parties hold those records, and they are also available from Pacert.gov.

II. ACTION SOUGHT.

1. Notify: (1) DHA and (2) 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. Promptly affirm the uncontroverted and admitted alteration of records. State in your findings exactly which record copies were altered (e.g., Original FY 2013 Walter Reed FOIA Processing Log as it existed at the time it was submitted as Walter Reed’s FY 2013 Annual report, allegedly to Navy, Navy BUMED), who made each alteration, and when each alteration was made.
5. Affirm that DHA Agency Counsel Cygnarowicz was aware of material alterations, but nevertheless entered altered documents into evidence thru DOJ counsels. Cygnarowicz has stated that he reviewed DOJ documents prior to submission to the Court, and record evidence appears to document that he was fully aware of the alterations prior to doing so (and may have communicated with Bizzell regarding same). He is also believed to have prepared DHA’s Vaughn Index^[1] citing a 17-page Log prior to the materially-altered 16-page Log being released by Bizzell (as discussed below). Any participation in placing known altered documents into Court

records must be documented. There is no Attorney-Client privilege or shield regarding such participation in alleged malfeasance.

6. If any records have not been destroyed, seek that each Accused Party provide to you each specifically enumerated record/record set in their possession, identifying by name who held the record, along with a record count and page number count for each record to prove their existence. Absent the Accused Parties producing each specifically enumerated record/record set for your verification to prove their existence, NARA will likely be misled. 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.

The records in question are the Original record of Walter Reed's FY 2013 FOIA processing log that I sought via FOIA on or about April 1, 2014 that Bizzell alleges that she sent to Navy, Navy/BUMED as Walter Reed's FY 2013 Annual FOIA Report Submission (along with the forwarding correspondence thereto) and other subsequent federal record evidentiary versions of that same Original record.^[2] See below.

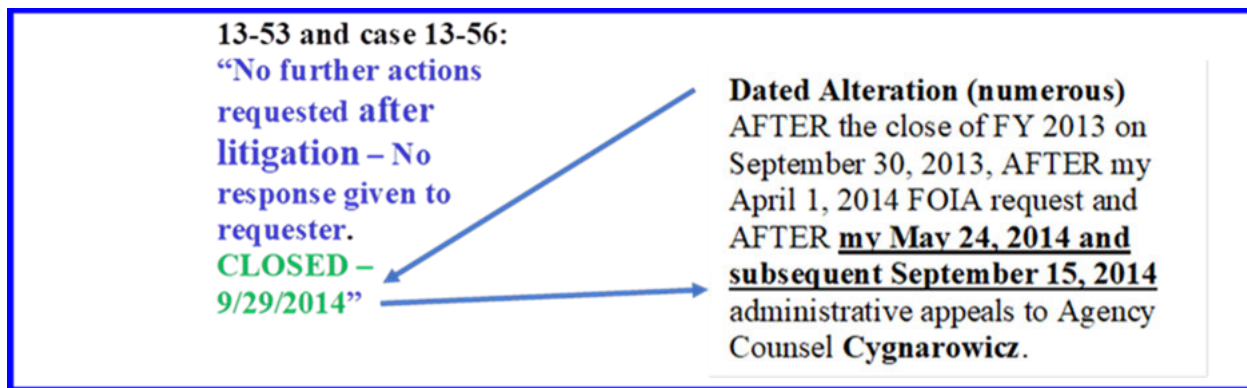
Alterations. Accused Parties Individually and/or Collectively, et. al:

1. First, Bizzell **altered both** a 16-page version and a 17-page version of the alleged Original record to produce two altered records during court proceedings with identical, multiple dated alterations (in the "Comment" column) after my April 1, 2014 FOIA request, after my May 27, 2014 and subsequent September 15, 2014 administrative appeals, and nearly a full year after the close of FY 2013 on September 30, 2013. Even these incontrovertible alterations of the Original record may have occurred during litigation, which began on March 3, 2016.
2. Second, Bizzell **also admits to altering, during litigation**, a 17-page Log (cited in a Vaughn Index or the Original, unaltered Log, if different) to produce the 16-page Log cited above. Note, the page count of the Original, unaltered record (a **true** copy of which has never been produced) is unknown by me, such that it is not clear which Log was altered to produce the materially-altered 16-page Log.

I challenged that Bizzell had not produced a promised FY 2013 Log with redactions reduced from *fifty-three* exemption (b)(6) redactions to *fifteen* (as stated in her sworn declaration), and I opined (and Cygnarowicz is aware of this) that to do so Bizzell would have to: (a) again alter the 17-page version or the 16-page version already in evidence with dated alterations; or, (b) produce the actual, Original, unaltered Log that she states she submitted as Walter Reed's FY 2013 Annual FOIA report to Navy, Navy BUMED without those dated alterations and make the reduced *fifteen* redactions to that Original unaltered Log. Bizzell and Accused Parties then refused to release any Log with redactions reduced to *fifteen*. Shortly thereafter, by coincidence or otherwise, DOJ's Lead Counsel (Marina Braswell) (who had submitted records into evidence under her signature) withdrew from the case ^[3]

Bizzell first released a materially-altered 16-page version of the alleged Original Log (and that version contained dated alterations such that it cannot be the Original Log), and then she released a 17 page version of that very same 16-page log containing the same dated alterations.

Both records produced contain identical multiple dated alterations in the “Comment” column after my April 1, 2014 FOIA request, after my May 27, 2014 and subsequent September 15, 2014 administrative appeals to DHA’s Cygnarowicz, and nearly a full year after the close of FY 2013 on September 30, 2013. Neither, therefore, can be the Original Log. *See* Attachment A, 16-Page Log with Dated Material Alterations and Attachment B, 17-Page Log with Dated Material Alterations. For example, see identical comments to Walter Reed’s FY 2013 FOIA Log case 13-53 and case 13-56 (involving my own (Robert Hammond) 2013 FOIA requests) with alterations dated **September 29, 2014**, stating, “*No further actions requested after litigation – No response given to requester. CLOSED –9/29/2014.*” Not only is September 29, 2014 after my May 27, 2014 and subsequent September 15, 2014 administrative appeals to DHA’s Cygnarowicz, the instant “litigation” was not filed until two years later on April 3, 2016, raising questions as to when the alterations above citing “*after litigation*” were made. See below:



Both Logs also have evident alterations, deletions within rows/and or deletions of entire rows.^[4]

Bizzell admits under oath to altering the original FY 2013 FOIA processing log to produce a 16-page Log that differed from the 17- page Log cited in Defendant’s Vaughn Index, although her account and that of Agency counsel(s) are at odds as to the extent of the alterations.^[5]

Destruction of Records. Accused Parties Individually and/or Collectively, et. al

Bizzell and Agency Counsel Cygnarowicz, et al., may have also unlawfully destroyed the following 6 specific records (which have never been produced in court); or they may be in imminent danger of being destroyed:

- 1 the Original Walter Reed FY 2013 FOIA Processing Log as it existed when submitted as Walter Reed’s FY 2013 Annual FOIA report, *purportedly* to Navy, Navy BUMED (page count unknown by me);
2. the forwarding correspondence to the Walter Reed FY 2013 FOIA Processing Log sent to Department of Navy (*presumed* to be an email from Bizzell with potentially multiple copy to

- addressees (such as BUMED's Della Garcia and Navy's DONFOIA-PA office personnel (e.g., Robin Patterson)) and containing Walter Reed's FY 2013 FOIA Processing Log as a PDF attachment);
3. the forwarding correspondence to the Walter Reed FY 2013 FOIA Processing Log potentially **also** sent to DHA (likely Nadine Brown) in addition to Navy (*presumed* to be an email from Bizzell with potentially multiple copy-to addressees and containing Walter Reed's FY 2013 FOIA Processing Log as an attachment);
 4. the Walter Reed FY 2013 FOIA Processing Log as it existed at the time of my April 1, 2014 FOIA Request (*purportedly* the Original);
 5. the Walter Reed FY 2013 FOIA Processing Log as it existed when DHA's Cygnarowicz reviewed my September 15, 2014 administrative appeal and upheld the Agency's unlawful withholding under Exemption 5.
 6. the 17-page Vaughn Index Walter Reed FY 2013 FOIA Processing Log cited by Accused Parties (who later removed their claim of withholding the record under Exemption 5, clearing its release (with only *fifteen* exemption (b)(6) redactions)).

Background.

1. On or about April 1, 2014, I submitted a FOIA request to the Department of Navy BUMED seeking all records and raw data of the Fiscal Year ("FY") 2013 Annual FOIA Report submissions for Walter Reed as received by BUMED. See Dkt. No. 1, Complaint Ex. 3, at 20, 21.
2. My FOIA request also seeks the forwarding correspondence of Walter Reed's FY 2013 Annual FOIA Report Submission, (*presumably* sent by email from Walter Reed's FOIA Officer (Bizzell) to BUMED [and to OPNAV DNS-36, DONFIA-PA Office personnel] with the FY 2013 FOIA Processing Log as a PDF attachment).
3. On or about April 15, 2014 Navy BUMED referred my FOIA Request to Walter Reed. All the while, BUMED was getting quarterly statistical FOIA reports from Walter Reed, which were sent to DONFOIA-PA; Patterson, Robin L CIV OPNAV DNS 36 with copies to Garcia, Della W. GS BUMED. See Dkt. No. 1, Complaint Ex. 3, at 18, 20, 21; Dkt.24-12, Ex B-11 at 3.
4. On May 27, 2014, I appealed to DHA's Appellate Authority, Cygnarowicz, that Walter Reed had not answered my FOIA request at all, and then on September 29, 2014, I appealed Walter Reed's subsequent unlawful claim of Exemption (b)(5) in withholding the record, (which is required by the FOIA statute and 2016 FOIA Improvement Act to be released to the Public!).
5. On December 8, 2014, DHA's Agency Counsel Paul T. Cygnarowicz denied my administrative appeal for these records under Exemption 5^[6], and, therefore, had the actual Walter Reed FY 2013 FOIA processing log that Bizzell alleges that she sent to Navy BUMED as Walter Reed's FY 2013 Annual FOIA Report submission.
6. During litigation, by email (on Jun 28, 2016 at 11:43 PM), DOJ Lead Counsel (Braswell) sent my attorney the Accused Parties' **Vaughn Index** citing a 17-page Walter Reed FOIA Processing Log responsive to my April 1, 2014 FOIA request as being withheld under Exemption 5 (as originally claimed, but then also citing Exemption 6 for certain portions, falsely alleged to be only the names of FOIA requesters seeking medical records).
7. The Proposed Vaughn Index is alleged to have been prepared by Agency Counsel Paul T. Cygnarowicz, and he allegedly possess or possessed that 17-page FY 2013 Walter Reed FOIA Processing Log cited in the Vaughn Index, as does Bizzell.
8. Walter Reed's FY 2013 FOIA Processing Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index is static. A **true copy** of that record has allegedly not been released and may have been or may about to be destroyed.
9. Walter Reed's FY 2013 FOIA Processing Log, as sent to and received by BUMED/ became a finalized report (PDF) when submitted. It is **static**. (As a data point to the approximate time the Log was sent, in 2012 Walter Reed's Bizzell sent Walter Reed's similar FY 2103 FOIA

processing Log to Navy, Navy BUMED via email with attached PDF on October 1, 2013, one day after the close of the FY).

10. A **true** copy of Walter Reed's, unaltered, static FY 2013 FOIA Processing Log, as sent to and received by BUMED has incontrovertibly and verifiably not ever been released. It is presumed destroyed or in imminent danger of being destroyed.
11. During litigation (citing my April 1, 2014 FOIA Request to Navy BUMED seeking all records of the FY 2013 Annual FOIA Report Submission for Walter Reed, Dkt. No. 12, Amended Complaint ¶ 56), Accused Parties removed their claim of withholding the Original FY 2013 Log cited as Walter Reed's FY 2013 Annual Report to BUMED ("WRNMMC FOIA Office will no longer withhold from plaintiff [me] the FY 2013 FOIA Report Submission for Walter Reed.").
12. By memo dated March 9, 2017, Bizzell then released a materially-altered 16-page Walter Reed FOIA Processing Log (with redactions for *fifty-three* cases, citing Exemption 6 and citing Exemption 7). See Attachment A, 16-Page Log with Dated Material Alterations. Bizzell concurrently provided that same record to then DOJ Lead Counsel, Marina Braswell, claiming that it is the Log that Walter Reed sent as its FY 2013 Annual FOIA Report submission to BUMED/OPNAV. "*The FY13 FOIA Log is the only relevant "raw data" record of numbers the WRNMMC FOIA Office sent to BUMED for inclusion into the Congressional Report. See Dkt. No. 26-1; see also Third Bizzell Decl. Section A. ¶ 11, 17; Dkt. Dkt. No. 26, Supplemental Motion for Summary Judgement, at 6, 8; Dkt. No. 24-12, Ex. B-11, at 1 ¶ 1.c. (report sent to BUMED). [available at Pacer.gov]*
13. All the while, Bizzell, DOJ Lead Counsel (Braswell) and DHA's Agency Counsel (Paul Cygnarowicz) were purportedly in possession of the different 17-page Walter Reed FY 2013 FOIA Processing Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index (and evidently also Walter Reed's Original, unaltered FY 2013 Log in the case of Bizzell and Cygnarowicz).
14. On May 27, 2017, Bizzell then stated that she had removed her unlawful claim of Exemption (b) (7) entirely for Walter Reed's FY 2013 FOIA Processing Log as sent to/received by Navy BUMED/DONFOIA-PA and had reduced Exemption (b)(6) redactions from *fifty-three* cases to *fifteen* cases. Bizzell Third Decl., page 5. Footnote 2.^[7]
15. Accused Parties did not then release any Walter Reed FY 2013 FOIA Processing Log with Exemption (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases, as promised (after withdrawing their withholding under Exemptions (b)(5) and (b)(7). See Third Bizzell Decl. ¶ 9, footnote 2.
16. Then, on July 14, 2017, Judge Jackson ordered Accused Parties and me to appear on July 25, 2017 regarding records that Accused Parties falsely stated had been released but which had not released. Such records included Walter Reed's FY 2013 FOIA Processing Log, as sent to and received by BUMED/DONFOIA-PA with (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases. See Dkt. No 27; see also Dkt. No. 28 and Order of 7/14/2017.
17. On July 24, 2017 at 5:01 PM, just before that appearance, DOJ's Lead Counsel sent my Counsel a version of Walter Reed's FY 2013 FOIA Processing Log with content and blank rows or lines that is identical to the 16-page materially-altered March 9, 2016 Bizzell memo Log (*with none of the fifty-three redactions reduced*), with the only difference being that it is 17 pages, making it appear to be the 17-page Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index. Though Accused Parties purport it to be, this 17-page Log, by virtue of its identical dated material-alterations alone cannot possibly be Walter Reed's FY 2013 FOIA Processing Log as sent to and received by Navy BUMED as Walter Reed's Annual FOIA Report submission/raw data. With dated alterations 364 days after the close of FY 2013, it is not a log provided to anyone as Walter Reed's FY 2013 FOIA report submission.
18. In Court proceedings on 7/25/2017, DOJ Lead Counsel (accompanied DHA's Agency Counsel Paul Cygnarowicz) admitted that identical dated alterations had been made to **both** the 16-page March 9, 2016 Bizzell memo Log and the 17-page Log released the night of 7/24/2017 and that neither was Walter Reed's FY 2013 FOIA Processing Log as sent to and received by Navy BUMED as Walter Reed's Annual FOIA Report submission/raw data.

19. DOJ's Lead Counsel (supported by DHA's Agency Counsel Paul Cygnarowicz) further admitted in Court proceedings on 7/25/2017, (apart from the incontrovertible dated alterations), that Bizzell altered the Original Walter Reed FOIA Processing Log from 17-pages during litigation to produce the 16-page Log accompanying her Memo dated March 9, 2017.
20. **Again, after being caught, Bizzell admitted in her sworn declaration to altering during litigation** the (alleged) Original Walter Reed FOIA Processing Log from 17-pages to produce the 16-page Log accompanying her Memo dated March 9, 2017 and contends that the only difference to the Original Log, which has never been released is, (unbelievably): "The loss of a page was the result of **reformatting the font size to improve the FY13 FOIA Log's appearance.**" See Dkt. No. 26-1, Third Bizzell Decl. ¶ 8, sentence 8 and ¶ 7, sentence 4 (admissions of alterations).^[8]
21. In as much as Accused Parties have never released Walter Reed's **true**, unaltered, static FY 2013 FOIA Processing Log, as sent to and received by BUMED, I do not know the true page count of that record, whether it be 16-pages, 17-pages, or some other number.
22. I challenged that Bizzell had not produced a promised FY 2013 Log with redactions reduced from *fifty-three* exemption (b)(6) redactions to *fifteen* (as stated in her sworn declaration), and I opined (and Cygnarowicz is aware of this) that to do so Bizzell would have to: (a) again alter the 17-page version or the 16-page version already in evidence with dated alterations; or, (b) produce the actual, Original, unaltered Log that she states she submitted as Walter Reed's FY 2013 Annual FOIA report to Navy, Navy BUMED without those dated alterations and make the reduced *fifteen* redactions to that Original unaltered Log.
23. Accused Parties then did not subsequently release any Walter Reed FY 2013 FOIA Processing Log with Exemption (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases, as promised (after withdrawing their withholding under Exemptions (b)(5) and (b)(7). See Third Bizzell Decl., ¶ 9, footnote 2.
24. Shortly thereafter, by coincidence or otherwise, DOJ's Lead Counsel (Marina Braswell) (who had submitted records into evidence under her signature) withdrew from the case.

IV. APPLICABLE RETENTION SCHEDULE, NARA GRS 4.2 Item 20

020	<p>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:</p> <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 	<p>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.</p>	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 § 1230.3

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.)

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

With my respect,

/s/

Robert Hammond

January 31, 2021

Whistleblower

Attachments:

- A. 16-Page Log with Dated Material Alterations
- B. 17-Page Log with Dated Material Alterations

[1] A Vaughn Index is a document prepared by agencies that are opposing the disclosure of information under FOIA. The index must describe each document (or portion of each document) that has been withheld and provide a detailed justification of the agency's grounds for non-disclosure (i.e., the FOIA exemption relied upon must be stated). The term originates from the case of Vaughn v. Rosen [1]

Vaughn Indices are intended to permit a court "to make a rational decision [about] whether the withheld material must be produced without actually viewing the documents themselves." [2]

[2] Regardless of conflicting claims as to the records and to whom Bizzell may have given copies at some points in time, including during litigation. They are all federal records.

[3] Bizzell subsequently re-released the same materially-altered 17-page Log, stating only that it was a Log that she had previously released and had apparently given to DHA at some point in time.

[4] In the materially-altered Logs, there is a blank row at page 9 between the entries for requests 13-27 and 13-29 and there is no entry for request 13-28. There is a blank row at page 18 between requests 13-67 and 13-68. It appears that content of some sort was removed with respect to the Vaughn Index Log and potentially the Original Log purportedly submitted to Navy.

[5] In contradiction to Bizzell's statement regarding no alterations other than a font size change, Accused Parties state in their Response that there was at least one other alteration "removal of an empty line to correct a numbering and spacing problem," See Dkt. No. 25-1 ¶¶ 54, 55. Bizzell did not state this. Bizzell stated under oath, "The loss of a page was the result of **reformatting the font size to improve the FY13 FOIA Log's appearance.**" Accused Parties have not released any such Log with a difference in the number of rows or "lines" from the 16-page Log to the 17-page Log due to a blank space. Cygnarowicz is evidently involved in entering known altered documents into evidence, while evidently possessing a copy of the unaltered record(s).

[6] There is no deliberative process in purely statistical reports and the information was antecedent when I sought this information, having already been incorporated into final reports. The FOIA Improvement Act of 2016 requires that Agencies proactively disclose the raw data used in compiling their reports.

Accused Parties have also not released the forwarding correspondence of Walter Reed's FY 2013 Annual FOIA Report Submission.

Accused Parties have also not released Walter Reed's 2nd, 3rd, and 4th Quarterly FOIA Reports submissions to BUMED/OPNAV, providing contemporaneous statistical data.

DOJ ordered these quarterly FOIA Reports following a GAO audit of significant deficiencies in DOD's FOIA practices, including (among others): deficiencies in assignment of tracking numbers; reporting to DOJ; over-use of Exemptions (b)(5) and (b)(6); and other matters. See GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act at <http://www.gao.gov/products/GAO-12-828>.

[7] "Exemption (b) (6) was applied on the previously released FY13 FOIA Log to fifty-three requests for information. Having reviewed the FY13 FOIA Log again, I reduced Exemption (b) (6) redactions to only fifteen cases, those

which are requests for medical records, and, in an abundance of caution, those appearing to involve a request for medical records."

[8] While any alteration is a violation of law, a careful examination of both the 17-page Log and the 16-page log with respect to the text wrapping within each cell indicates that the difference is not as Bizzell states under oath as due to a font size change, but rather simply changing the page margins during printing after being caught. Also compare page margins. I believe that alterations from the Original Log are due to deletions of content and/or entire rows/lines. NARA should be wary of any records produced by Accused Parties and potential further false claims made about them. Further, the Original Log should not have any alterations after September 30, 2013, which is the close of FY 2013.

 **WRNMMC FY 13 FOIA PROCESSING LOG (redacted - B6 Only).pdf**
129K

FY13 FOIA PROCESSING LOG

Oct 2012 - Sep 2013

CONTROL #	DATE RECEIVED	REQUESTOR/ NAME	SUBJECT/TITLE	ACTION OFFICE	DATE TO ACTION OFFICE	ACTION OFFICE SUSPENSE DATE	INITIAL RESPONSE TO REQUESTER	FINAL RESPONSE TO REQUESTER	COMMENT	REDACTION CODES
13-01	10/18/12	Lexis/Nexis (on behalf of [REDACTED] B6)	Traffic Accident Report	Security - Mr. [REDACTED] B6	10/23/12		10/23/12	11/14/12	CLOSED 11/14/2012	(b)(6)
13-02	10/18/12	Lexis/Nexis (on behalf of [REDACTED] B6)	Traffic Accident Report	Legal	10/23/12		10/23/12	11/14/12	Legal Admin hand-carried request along with responsive docs to this office. I reviewed, made redactions and returned to Legal for final review and release recommendation. CLOSED 11/14/2012	(b)(6)
13-03	11/5/12	Roger Myerberg (on behalf of [REDACTED] B6)	Documents to inspection/eval/test/analy /of 23mm Medtronic Bioprosthetic valve	Contracting Cardiology/ Cardiac Cath. Clinic	11/05/12 11/14/12			11/15/12	CLOSED 12/18/2012	
13-04	11/7/12	[REDACTED] B6	Received from DON - Redacted 1 page doc	JAG	11/7/12	11/19/12	N/A	11/19/12	Closed 11/20/2012 Documents given to [REDACTED] B6 to mail to requester	(b)(6)

FY13 FOIA PROCESSING LOG

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13-05	11/15/12	[REDACTED] B6	Names of companies awarded staffing contracts for nurses and various physicians	Health Care Service	11/19/12	11/30/12	11/19/12	12/4/12	Closed 12/4/2012 Info e-mailed to requester.	N/A
13-06	11/19/12	[REDACTED] B6	Copy of NCIS report into death of [REDACTED] [REDACTED] B6	N/A					Not a proper FOIA. Requester identifies herself to be the "wife" on the request, however shows no identity to verify. Requester notified 1/14/13. CLOSED 3/5/13 - No response from requester	
13-07	11/19/2012	[REDACTED] B6	Copy of Contract #N4008011 - F0475	Health Care Service/ Contracting				12/11/2012	Case transferred to Pax River. CLOSED 12 11/2012 Final e-mails with Pax River - 2/4/2013	

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13-08	11/20/2012	B6 (Jacob Gardner Office Supplies)	Names of Credit Card Holders	Contracting					CLOSED 5/28/13	B6
13-09	12/3/2012	Social Security Amin on behalf of B6	Medical and Psychic Records. Second request. First request went to Med Records in October	Medical Records					Medical Records will respond directly to the requester CLOSED 1/14/2013	
13-10	12/4/2012	B6	EO Complaint	EO/JAG				3/4/13	Partial Release of Information CLOSED 3/4/2013	B-5; B-6
13-11	12/17/2012	B6	Psychiatry Records	Psychiatry					CLOSED 7/1/2013	B-6 redaction for pseudo names
13-12	1/24/2013	B6	Full Contract and amendments for contract # N00168-08-P-1372	Contracting					CLOSED 1/28/13 - requested info e-mailed to requester	B4 & B6

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13-13	1/30/2013	B6 (on behalf of B6 - minor)	Copy of any subsequent report of B6 Pediatrician and reports from Radiologist	B6 Radiology					2/1/13- contacted B6 regarding request. B6 called back. He will contact requester and let me know. See enclosed e-mail. CLOSED 3/20/13	NO RECORD
13-14	2/6/2013 Hand delivered by B6	Lexis Nexis (on behalf of B6)	Accident Report	N/A	N/A	N/A	2/6/2013 - via tele	2/6/2013 - via tele	Request dated 2/6/13. Called to see if Lexis Nexis still needed info. Was informed they did not. See statement in record. CLOSED - 2/6/2013	
13-15	2/6/2013 Hand delivered by B6		Full Operative Report from 27 June 2011 surgery	Records - Denson Healthcare - Moidel	2/6/2013	2/14/2013	2/6/2013		CLOSED 3/13/13	RELEASED IN FULL
13-16	2/6/2013 Hand delivered by B6	B6	Purchases of Kimberly-Clark Corporation from 2008 to present	Contracting	2/6/2013	2/14/2013	2/6/2013	4/11/2013	Redacted copies mailed to requester CLOSED 4/11/2013	(b)(5) & (b)(6)

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13-17	2/6/2013 Hand delivered by B6	Goodman, Allen & Filetti (on behalf of B6)	Copy of in/out Patient Records	Records	2/7/2013	2/19/2013			CLOSED 7/8/2013	Full Release
13-18	2/6/2013 Hand delivered by B6	Dept Vet Affairs-New Orleans (Reference - B6)	Treatment records, hospital summaries, findings and/or diagnosis for Heart Problem - 7/1/87 - 1/1/88	Records	2/7/2013	2/19/2013			CLOSED 7/8/2013	No Record
13-19	2/7/2013	B6	Number of breast cancer surgeries performed monthly	Patient Relations					CLOSED 3/20/2013	Full Disclosure
13-20	2/26/2013	B6	Emails, Phone Calls, Letters, or other records "regarding" B6, and WRNMMC, NCIS, NRO(SSFA), Portsmouth Naval Hospital and NAVCONBRIG Chesapeake.	N/A	N/A	N/A	2/5/2013		Initial response - Need to know not specified. CLOSED 6/11/2013 No response from requester	No response from Requester

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13-21	3/13/2013	B6	12 month Purchase Card history	Contracting	3/20/2013	3/29/2013	3/20/2013			
13-22	3/20/2013	Robert Hammond	Lab Report/ Computer Printout - Value that would have existed in the computer between 12/23/ - 12/29/2013						Sent back to requester. Request unclear. Which Lab? or is report generated by IT? CLOSED 6/11/2013	Released all info in full
13-23	3/21/2013	B6 (CAPT, USN)	IG Investigation Report	IG and Investigating Officer	3/21/2013	3/29/2013	3/20/2013		Office of the Navy Inspector General took control of this request - see e-mails 4/9/ - 4/10/2013. I call B6 twice requesting official letter but she has not sent one. CLOSED 4/10/2013	Non- Official Transfer (ONIG just took the case).
13-24	4/24/2013	B6	CHCS Report	Medical Records	4/23	4/30/2013	4/24/2013			Full Release CLOSED 5/28/13

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13-25	4/11/2013	People for the Ethical Treatment of Animals (PETA) B6	2012-present records on the use of living and/or dead animals during training on Intuitive Surgical's da Vinci Surgical System	Walter Reed Army Institute of Research (WRAIR)	4/17/2013	N/A - Transferred to WRAIR - not a WRNMMC Case	4/17/2013	4/17/2013	Took awhile to find the office to send request to at WRAIR. Website give office of PAO but that office gave another number to an office that didn't exist. 5/8/2013 found B6 at USARMC - Ft. Detrick Transferred request. Requester notified. CLOSED 5/8/2013	TRANSFER
13-26	4/24/2013	Robert Hammond	Medical records 12/2011 to 8/2012 AND in/out and emergency records from 2/21/2012 AND all records after 2/21/2012 AND copies of DD form 2870 submitted 2/21/2012 to 5/30/2012	Medical Records	4/30/2013	5/13/2013	4/30/2013		CLOSED 5/23/2013	Released all received info in FULL

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13-27	4/25/2013	Calloway, LLC on behalf of [REDACTED] B6 for her sister [REDACTED] B6	EEO Settlement Case paid in Aug 2012. Want documentation.	EEO	4/30/2013	5/13/2013	4/30/2013	5/23/2013	CLOSED 5/23/2013 Transferred to NARMC - Ft Belvoir	
13-29	4/26/2013	[REDACTED] B6	Medical records - 1991 through 1995	Medical Records						No Record Requester is to contact NPRC for documents
13-30	4/30/2013	[REDACTED] B6	All correspondence relevant to case of US -vs- [REDACTED] B6 from 28 Dec 2000 to 31 Jan 2002	NCIS				CLOSED 7/8/2013		(b)(6)
13-31	4/30/2013	Instrument Specialists, Inc	Evaluation, rating for each factor, and overall rating of ISI proposal AND WRNMMC	Contracting	4/30/2013	5/20/2013	5/2/2013			

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			Contract and total scope of work for contract # RFQ763072							
13-32	5/1/2013	Dept of Vet Affairs on behalf of [REDACTED] B6	Treatment records, hospital summaries, findings and/or diagnoses - Jun thru Jul 2005	Records	5/2/2013	5/8/2013	5/2/2013	5/8/2013	Short suspense - Special request from VA. PAD already responded. NO RECORD. CLOSED 5/8/2013	
13-33	Out of sequence 4/16/2013	FOIA GROUP - Attn: [REDACTED] B6	Copy of contract #N0016812F7642 (SOW, Mods, Co Name, end user name and CTOR name)	Contracting	4/16/2013	5/3/2013	5/8/2013		No response from dept by suspense date. 5/8/2013 second request for docs sent to dept. CLOSED 5/24/2013	(b)(6)
13-34	5/13/2013	[REDACTED] B6	Documents regarding his pay	N/A	N/A	N/A	N/A	5/23/2013	NOT A PROPER FOIA CLOSED 5/23/2013	
13-35	5/28/2013	[REDACTED] B6)	NCIS Report	Armed Forces Center for Child Protection	6/13/2013 ([REDACTED] B6)	N/A	6/13/2013	6/13/2013	Spoke with [REDACTED] B6, [REDACTED] - Request is denied in full CLOSED 7/8/2013	(b)(6) and (b)(7)

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13-36	5/24/2013	B6	1. communications /documents with or from DFAS 2. E-mail/etc regarding pay 3. Copy of DD Form 2654 sent to DFAS	Finance and Accounting Office	7/1/2013	7/11/2013	7/1/2013			
13-37	5/13/2013	B6	AHLTA report from 1 Dec 2011 through 20 Mar 2013	HIPPA/ Privacy Office	7/1/2013	7/1/2013	7/1/2013	7/1/2013	Received copy of requested items from HIPPA/Privacy Office. Redacted sponsor SSN only. CLOSED 7/1/2013	(b)(6)
13-38	7/3/2013	B6	Unclear request - Security Clearance??	N/A	N/A	N/A	7/11/2013	7/11/2013 - Via tele con w/requester	Requester is a Contractor. She will contact her HR and Security Admin here to resolve request. CLOSED 7/11/2013	N/A Request unclear.
13-39	6/25/2013	Robert Hammond	Lab Report/ Computer Printout - Value that would have existed in the computer between 12/23/ - 12/29/2013	Records/ FOIA		Ms. Denson and I emailed regarding this request. Info already sent to requester.		N/A	Letter sent to requester 7/11/13. Asked and answered from case #13-22. CLOSED 7/18/2013	

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13-40	6/25/2013	Robert Hammond	Radiology and Dermatology Record along with phone consults	Records/ FOIA	Ms. Denson and I emailed regarding this request. Info already sent to requester.		N/A	7/11/2013	Letter sent to requester 7/11/13. Asked and answered from case #13-22. CLOSED 7/18/2013	
13-41	6/25/2013	Robert Hammond	Copies of DD Form 2870's (3)	Records/ FOIA	Ms. Denson and I emailed regarding this request. Info already sent to requester.		N/A	7/11/2013	Letter sent to requester 7/11/13. Asked and answered from case #13-22. CLOSED 7/18/2013	
13-42	6/25/2013	B6	Copies of "all pertinent documents of case #B6.	FOIA	N/A	N/A	N/A	7/11/2013	Denial - No written/justified reason to know info in another file. CLOSED 7/18/2013	B-6 & B-7
13-43	6/25/2013	Robert Hammond	Name and other identifying information for the 1:1 Sitters assigned to him on Dec 25, 2011 at 2215.	FOIA Office	N/A	N/A	7/17/2013	7/17/2013	Not a proper FOIA - no will pay statement. Information not provided in record. We do not "create" records to answer requests. CLOSED 7/17/2013	

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13-44	6/25/2013	Robert Hammond	Notes made by CAPT Curt Henry regarding hospital care from 24-26 Dec 2011	FOIA Office	N/A	N/A	7/17/2013	7/17/2013	Information not provided in record. We do not "create" records to answer requests. CLOSED 7/17/2013	B-6
13-45	6/25/2013	B6	Investigation documents for his daughter "B6"				7/23/2013		Awaiting response from requester CLOSED 9/25/2013	No response from requester
13-46	6/20/2013	B6	NCIS & JAG Investigation of the Death of B6	FOIA Office	N/A	N/A	7/23/2013		Awaiting response from requester CLOSED 9/25/2013	Certified Mail returned - "UNCLAIMED"
13-47	6/20/2013	B6	NCIS & JAG Investigation of the B6	FOIA Office	N/A	N/A	7/23/2013		Awaiting response from requester CLOSED - 9/19/2013	No response from requester
13-48	6/20/2013	B6	NCIS & JAG Investigation of the Death of B6	FOIA Office	N/A	N/A	7/23/2013		Awaiting response from requester CLOSED 9/25/2013	Certified Mail returned - "UNCLAIMED"

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13-49	7/11/2013	Archauleta/ Alsaffar & Higginbothan on behalf of [REDACTED] B6	Employment status of Dr. [REDACTED] B6	H/R	1/17/2013	7/22/2013	7/17/2013		Requester also want to know if Dr is protected under the Federal Tort Claims Act CLOSED 7/22/2013	- No written letter from [REDACTED] B6 agreeing to have info forwarded to this law firm (b)(6)
13-50	7/11/2013	Archauleta/ Alsaffar & Higginbothan on behalf of [REDACTED] B6	Employment status of Drs. [REDACTED] and [REDACTED] B6	H/R	1/17/2013	7/22/2013	7/17/2013		Requester also want to know if Dr is protected under the Federal Tort Claims Act CLOSED 7/22/2013	No written letter from [REDACTED] B6 agreeing to have info forwarded to this law firm (b)(6)
13-51		Joseph E. Schmitz, PLLC (on behalf of [REDACTED] B6	Investigative Report and back-up documents	Legal						
13-52	8/27/2013	Joseph Schmitz, PLLC (on behalf of [REDACTED] B6)	MOU, Shared agreement or similar docs between USUHS & WRNMMCE relating to [REDACTED] B6	Contracting, Radiology, Legal	9/19/2013		8/27/2013			
13-53	8/12/2013	Robert ond,	Records describing SOP or treatment protocol for symptomatic	Dept of Medicine	9/23/2013	9/27/2013	9/23/13	N//A – CASE HELD WITHOUT ACTION DUE TO LITIGATION	No further actions requested after litigation – No response given to requester.	

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			acute Hyponatremia						CLOSED – 9/29/2014	
13-54	8/16/2013	B6	Records of Refurbishment of the Autopsy room from 1966	Autopsy Room				10/7/2013	No Record. requester referred to National Archives CLOSED 10/7/2013	NO RECORD
13-55	8/23	Robert Hammond (processing held due to litigation) – informed to now process	ID of persons who accessed his laboratory records between 12/26/11 & 1/3/12	CHCS??	9/25/2013	10/18/2013		10/10/2013	Documents received from IT 10/9/2013 CLOSED 10/10/2013	Released in full
13-56	8/23	Robert Hammond (processing held due to litigation)	Numbers paged, text of those pages, ID of docs associated with each page & responses to pages on 12/26/2011 initiated by ANL 2LT Angela N. Leung	Telecom				N//A – CASE HELD WITHOUT ACTION DUE TO LITIGATION	No further actions requested after litigation – No response given to requester. CLOSED – 9/29/2014	

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13-57	9/9/13	B6	Service Contract of A.R.T Institute of Wash, Inc w/ WRNMMC along with number of people who reside in MD,VA or Washington who utilized IVF and ICSI, of the WRAMC Division of Reproductive Endocrinology and Infertility - 2000 to present	Contracting and/or Endocrinology						
13-58	9/9/13	B6	Terms of employment for B6 from 1/12 - 9/12	Behavioral Health Unit						
13-59	9/11	B6	medical records which may have been opened and read without authorization	N/A					Return to sender. Too broad. She must specify	Closed 9/15/ 2014 No Response From Requester
13-60	9/12	B6	Psych Records regarding Security Investigation.	Dept of Psychiatry	9/12/13	9/30/13		10/7/2013	DENIED - Per 10 USC 1102- Confidentiality of Records – Medical Quality Assurance	N/A

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									Records. Section (a) and Section (f) CLOSED 10/7/2013	
13-61	9/16/13	Dean Swartz, Esq (on behalf of [REDACTED] B6)	WRNMMC protocols for diagnosis and treatment of STEMI; providers & Supervisor for [REDACTED] B6 care while in ICE; Cath Lab results.	LEGAL - [REDACTED] B6	N/A	N/A	9/16/2013	9/16/2013	This request was sent directly to [REDACTED] B6 from Navy JAG Claim Unit in Norfolk, VA. I informed the requester that JAG would respond directly. See e-mail in folder CLOSED 9/16/2013	N/A
13-62	9/19/2013	[REDACTED] B6		IG	9/25/2013	10/9/2013	9/25/2013			
13-63	9/19/2013	Adelman, Sheff & Smith (on behalf of [REDACTED] B6)	Payroll/work attendance records from 8/26/11-3/30/12	Payroll	9/25/2013	10/9/2013	9/25/2013		CLOSED 9/15/2014 No response from Requester	
13-64	9/19/2013	LexisNexis (on behalf of [REDACTED] B6)	Military Police	Accident Report	9/25/2013	10/9/2013	9/25/2013			

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13-65	9/19/2013	LexisNexis (on behalf of B6)	Military Police	Accident Report	9/25/2013	10/9/2013	9/25/2013		CLOSED 9/30/2014	Closed per requester's
13-66	9/11/2013 Opened 9/23/2013	B6	Procedures and/or treatment guidelines for Calmare Scrambler Technology device	Pain Clinic					CLOSED 9/29/2014	RELEASED IN FULL (link to company which supplies product)
13-68	9/23/2013	B6	Command Investigation (QUANTICO)	JAG/ LEGAL Attn: B6	N/A	N/A	N/A	N/A	B6 called for Case Tracking Number ONLY. He says he is personally handling this case in the Legal office.	
13-69	9/26/2013	SA Nereida Matthew-Davis (on behalf of B6)	Investigation for employment	Psychiatry (B6)	9/26/2013	9/26/2013	9/23/2013 Having trouble finding respondent	9/26/2013.	Info sent to B6 B6 9/26/2013. She will respond directly to B6. CLOSED 9/26/2013	

RE: RRowan??+RE: typo. RE: + Cygnarowicz. RE: IMPORTANCE HIGH. DHA and WALTER REED not Navy.RE: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report

1 message

(b) (6) via Unauthorized Disposition UnauthorizedDisposition@nara.gov Sat, Feb 6, 2021 at 8:48 PM
Reply-to: (b) (6)
To: UnauthorizedDisposition <unauthorizeddisposition@nara.gov>
Cc: (b) (6)

... In furtherance to below, there is no question whatsoever that records were altered during litigation and potentially prior to litigation

Let's get to the bottom of who altered record, when, how and at whose direction / with whose knowledge (e.g., who gave it to Author RRowan?? Location: c:\Users\15713 ... AND others?)

4. Please compel the Agencies to produce the source documents (presumed to be MS Word) from which the subject 16-page Log, 17-page Log and Vaughn Index Log (which has never been released) were produced.

5. Then, please compel the Agencies to produce the same MS Word (or other) source documents used to produce the Log allegedly sent to Navy as Walter Reed's data for the FY 2013 Annual FOIA report and those same source records as they existed at the time of my FOIA request, Appeal() and Cygnarowicz' appellate determination on December 8, 2015

The source record will also validate the "font size" of each record and the page margin, etc., to factually account for the differences in resultant PDF page numbers

Note, that in addition to Bizzell, DHA likely holds those same source documents (e.g., likely Cygnarowicz).

Thank you, again..

With my respect,

Robert Hammond

From: (b) (6)
Sent: Saturday, February 6, 2021 5:59 PM
To: 'UnauthorizedDisposition' <unauthorizeddisposition@nara.gov>
Cc: (b) (6)
Subject: RRowan??+RE: typo. RE: + Cygnarowicz. RE: IMPORTANCE HIGH. DHA and WALTER REED not Navy.RE: NARA Complaint Alteration & Destruction of Record ICO Walter Reed' FY 2013 FOIA Report

NARA Unauthorized Disposition Team,

With my deep respect...

As to when the 17-page Log was created and by whom, I am sending you the original PDF sent to my attorney by DOJ's **Braswell, Marina (USADC)** <Marina.Braswell@usdoj.gov> at Date: Mon, Jul 24, 2017 at 5:01 PM, showing in the document File Property that it was created after the Bizzell March 9, 2017 16 page log

By: RRowan

On: Created 7/24/2017 3:18.01 PM

From: Microsoft Word - WRNMMC FY 13 FOIA PROCESSING LOG (redacted - B6 Only).docx

Please include these facts in your analysis as to the two materially-altered Logs. Pls ascertain the source records held by RRowan in creating the 17-page PDF and said person's role. Again the PDF source record is a Microsoft Word document, whereas the Original Log may have been created from MS Excel.

--/

1. I am still concerned that Walter Reed and DHA records officers will be misled and that NARA will be misled.
2. May I ask that you will confirm that I will have an opportunity to review your findings and/or the Agencies' responses before you issue a final decision on the matter ?
3. May I ask if a case number has been established, and if so what it is

Thank you

With my respect,

Robert Hammond

From: (b) (6)
Sent: Tuesday, February 2, 2021 1:33 PM
To: 'Unauthorized Disposition' unauthorizeddisposition@nara.gov; 'Andrea Riley' andrea.riley@nara.gov; 'GRS Team' <GRS_Team@nara.gov>; 'Jametta Davis' <UnauthorizedDisposition@nara.gov>
Cc: (b) (6)
Subject: typo. RE: + Cygnarowicz. RE: IMPORTANCE HIGH. DHA and WALTER REED not Navy. RE: NARA Complaint. Alteration & Destruction of Record 'ICO Walter Reed' FY 2013 FOIA Report

Typo correction. Sorry.

Change from:

“He has admitted to seeing the Vaughn Index Log (if he in fact did not personally produce it)”,

To:

“He has admitted to seeing the Vaughn Index Log (if he in fact did not personally produce the Vaughn Index (not the Log.)”

Thx.

From: (b) (6)
Sent: Tuesday, February 2, 2021 12:09 PM
To: 'UnauthorizedDisposition' unauthorizeddisposition@nara.gov; 'Andrea Riley' andrea.riley@nara.gov; 'GRS Team' <GRSTeam@nara.gov>; 'Jametta Davis' <UnauthorizedDisposition@nara.gov>
Cc: (b) (6)
Subject: + Cygnarowicz. RE: IMPORTANCE HIGH. DHA and WALTER REED not Navy.RE: NARA Complaint. Alteration & Destruction of Record 'ICO Walter Reed' FY 2013 FOIA Report

Thank you very much for your prompt reply.

Please examine carefully DHA's Deputy General Counsel Paul T. Cygnarowicz' role in (potentially) submitting known materially-altered records into evidence, and potentially more. He personally acted on my 2014 administrative appeals seeking the records

He has admitted to seeing the Vaughn Index Log (if he in fact did not personally produce it), and to his knowledge of resultant 16 page to 17 page count alterations (to that or another Log) during court proceedings. Unlawful in my view as a layperson. Don't know the actual page count of the Vaughn Index log cited as 17 pages, which is a record that should be produced to NARA

It is not unthinkable, in my opinion, that he may have advised Bizzell how to respond to the page count differences (once caught) and potentially how to produce a 17 page Log to enter into evidence with identical dated alterations to the 16-page Log. Neither Log is a Log that existed at the time of my FOIA request or appeal, based on dated alterations through September 29, 2014 alone. When each litigation evidence Log was produced, how (and by whom) are germane to unravelling this matter.

Without addressing the dated alterations in the Logs placed into evidence, and while denying culpability, Cygnarowicz has asserted outside of litigation:

1. “And even had the Agency falsified or otherwise altered documents, if that happened pre-litigation, Mr. Cygnarowicz—as FOIA agency counsel— did not create or alter any documents the Agency produced to Hammond.”

2. Further, "Hypothetically, if any alteration occurred after Hammond sued, Mr. Cygnarowicz's role during that period was to act as the liaison between the Assistant United States Attorney handling the litigation for the Agency and the Agency."

This stinks. In my opinion, rat deserting a sinking ship to leave other lower-level folks like poor Ms. Bizzell (presumably GS-11) holding the bag alone. Worse yet, Cygnarowicz is a high-ranking, field grade Reservist Military Officer, which offends me.

In my view, potentially with proper advice from Counsel, this may have all ended in 2014 without anyone getting into trouble. Very sad.

With my respect,

Robert Hammond

From: UnauthorizedDisposition <unauthorizeddisposition@nara.gov>

Sent: Monday, February 1, 2021 3:49 PM

To: (b) (6) Andrea Riley <andrea.riley@nara.gov>; GRS_Team <GRS_Team@nara.gov>

Subject: Re: IMPORTANCE HIGH. DHA and WALTER REED not Navy.RE: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report

Good afternoon,

NARA is aware that this issue is separate from the ongoing case with the Navy. Thanks.

NARA

Oversight and Reporting Team

On Mon, Feb 1, 2021 at 3:37 PM (b) (6) via Unauthorized Disposition <UnauthorizedDisposition@nara.gov> wrote:

Ms. Davis and NARA unauthorized disposition staff,

This is a completely different matter, separate from Navy, involving alteration of records during litigation by Walter Reed and DHA and further destruction of records.

Please promptly confirm that you are not combining these distinctly different Complaints against different agencies with different allegations.

Pls see below.

I. ALLEGATION.

I am alleging that:

1. The Walter Reed National Military Medical Center (“Walter Reed” or “WRNMMC”) FOIA Officer, **Judy J. Bizzell**, and/or others, materially altered multiple times & multiple copies of a document sought under FOIA and other subsequent federal record litigation evidentiary versions both prior to and **ADMITTEDLY** during litigation, and Defense Health Agency (“DHA”) **Agency Counsel Paul T. Cygnarowicz** allegedly had knowledge of those alterations, but nevertheless entered altered documents (which are also official records) into evidence, participating in such alleged malfeasance.
2. Original records and official federal record litigation evidentiary copies may have been destroyed or may be in imminent danger of being destroyed.

Federal entities (a) Walter Reed and (b) DHA, and no other entities, and employees (1) Bizzell and (2) Cygnarowicz are “Accused Parties” for the purpose of this narrow complaint (not to be combined with any other complaint). While Walter Reed is currently a subordinate entity of DHA, they each have their own accountable records officers/managers.

Thank you in advance for your integrity and perseverance.

With my respect,

Robert Hammond

Whistleblower

From: Jameetta Davis <UnauthorizedDisposition@nara.gov>

Sent: Monday, February 1, 2021 2:20 PM

To: (b) (6)

Subject: Re: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed’s FY 2013 FOIA Report

Dear Mr. Hammond,

Thank you for providing the additional information. We are continuing to work with the Navy to get this matter resolved.

On Mon, Feb 1, 2021 at 8:04 AM (b) (6) via Unauthorized Disposition <UnauthorizedDisposition@nara.gov> wrote:

(Best Viewed as HTML. Thx.)

Pls see below and the complete PDF complaint with footnotes and attachments, "NARA Complaint Alteration & Destruction of Records ICO Walter Reed FY 2013 FOIA Report w. attach.pdf." A soft copy of Complaint narrative is also attached to assist you

Thank you in advance for your integrity and perseverance.

With my respect,

Robert Hammond

Whistleblower

January 31, 2021

NARA Complaint. Alteration & Destruction of Records
ICO Walter Reed's FY 2013 FOIA Report

I. ALLEGATION.

I am alleging that:

1. The Walter Reed National Military Medical Center ("Walter Reed" or "WRNMMC") FOIA Officer, **Judy J. Bizzell**, and/or others, materially altered multiple times & multiple copies of a document sought under FOIA and other subsequent federal record litigation evidentiary versions both prior to and **ADMITTEDLY** during litigation, and Defense Health Agency ("DHA") **Agency Counsel Paul T. Cygnarowicz** allegedly had knowledge of those alterations, but nevertheless entered altered documents (which are also official records) into evidence, participating in such alleged malfeasance.
2. Original records and official federal record litigation evidentiary copies may have been destroyed or may be in imminent danger of being destroyed.

Federal entities (a) Walter Reed and (b) DHA, and no other entities, and employees (1) Bizzell and (2) Cygnarowicz are "Accused Parties" for the purpose of this narrow complaint (not to be combined with any other complaint). While Walter Reed is currently a subordinate entity of DHA, they each have their own accountable records officers/managers.

Given that multiple of the named Accused Parties purportedly possessed copies of subject records during litigation, each record copy is therefore its own evidentiary federal record and must be accounted for and addressed as to alterations.

Walter Reed and DHA have made multiple materially false and conflicting statements and inaccurate submissions to the Court regarding these records, heightening the likelihood of ongoing and/or further records destruction. Absent NARA's intervention, there is a high likelihood that records that have not already been destroyed will imminently be destroyed by Accused Parties. *"Oh what a tangled web we weave when first we practice to deceive."*

Only the actual production to NARA of each cited record by each Accused Party will suffice as proof that each record has not been destroyed.

As to citations in this complaint to District Court of Colombia in Civil Action No. 16-421 (KBJ) documents, Accused Parties hold those records, and they are also available from Pacert.gov.

II. ACTION SOUGHT.

1. Notify: (1) DHA and (2) 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. Promptly affirm the uncontroverted and admitted alteration of records. State in your findings exactly which record copies were altered (e.g., Original FY 2013 Walter Reed FOIA Processing Log as it existed at the time it was submitted as Walter Reed's FY 2013 Annual report, allegedly to Navy, Navy BUMED), who made each alteration, and when each alteration was made.
5. Affirm that DHA Agency Counsel Cygnarowicz was aware of material alterations, but nevertheless entered altered documents into evidence thru DOJ counsels. Cygnarowicz has stated that he reviewed DOJ documents prior to submission to the Court, and record evidence appears to document that he was fully aware of the alterations prior to doing so (and may have communicated with Bizzell regarding same). He is also believed to have prepared DHA's Vaughn Index^[1] citing a 17-page Log prior to the materially-altered 16-page Log being released by Bizzell (as discussed below) Any participation in placing known altered documents into Court records must be documented. There is no Attorney-Client privilege or shield regarding such participation in alleged malfeasance
6. If any records have not been destroyed, seek that each Accused Party provide to you each specifically enumerated record/record set in their possession, identifying by name who held the record, along with a record count and page number count for each record to prove their existence. Absent the Accused Parties producing each specifically enumerated record/record set for your verification to prove their existence, NARA will likely be mis-lead. 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

The records in question are the Original record of Walter Reed's FY 2013 FOIA processing log that I sought via FOIA on or about April 1, 2014 that Bizzell alleges that she sent to Navy, Navy/BUMED as Walter Reed's FY 2013 Annual FOIA Report Submission (along with the forwarding correspondence

thereto) and other subsequent federal record evidentiary versions of that same Original record.^[2] See below.

Alterations. Accused Parties Individually and/or Collectively, et. al:

1. First, Bizzell **altered both** a 16-page version and a 17-page version of the alleged Original record to produce two altered records during court proceedings with identical, multiple dated alterations (in the “Comment” column) after my April 1, 2014 FOIA request, after my May 27, 2014 and subsequent September 15, 2014 administrative appeals, and nearly a full year after the close of FY 2013 on September 30, 2013. Even these incontrovertible alterations of the Original record may have occurred during litigation, which began on March 3, 2016.
2. Second, Bizzell **also admits to altering, during litigation**, a 17-page Log (cited in a Vaughn Index or the Original, unaltered Log, if different) to produce the 16-page Log cited above. Note, the page count of the Original, unaltered record (a **true** copy of which has never been produced) is unknown by me, such that it is not clear which Log was altered to produce the materially-altered 16-page Log.

I challenged that Bizzell had not produced a promised FY 2013 Log with redactions reduced from *fifty-three* exemption (b)(6) redactions to *fifteen* (as stated in her sworn declaration), and I opined (and Cygnarowicz is aware of this) that to do so Bizzell would have to: (a) again alter the 17-page version or the 16-page version already in evidence with dated alterations; or, (b) produce the actual, Original, unaltered Log that she states she submitted as Walter Reed’s FY 2013 Annual FOIA report to Navy, Navy BUMED without those dated alterations and make the reduced *fifteen* redactions to that Original unaltered Log. Bizzell and Accused Parties then refused to release any Log with redactions reduced to *fifteen*. Shortly thereafter, by coincidence or otherwise, DOJ’s Lead Counsel (Marina Braswell) (who had submitted records into evidence under her signature) withdrew from the case.^[3]

Bizzell first released a materially altered 16 page version of the alleged Original Log (and that version contained dated alterations such that it cannot be the Original Log), and then she released a 17-page version of that very same 16 page log containing the same dated alterations

Both records produced contain identical multiple dated alterations in the “Comment” column after my April 1, 2014 FOIA request, after my May 27, 2014 and subsequent September 15, 2014 administrative appeals to DHA’s Cygnarowicz, and nearly a full year after the close of FY 2013 on September 30, 2013 Neither, therefore, can be the Original Log See Attachment A, 16 Page Log with Dated Material Alterations and Attachment B, 17-Page Log with Dated Material Alterations. For example, see identical comments to Walter Reed’s FY 2013 FOIA Log case 13 53 and case 13 56 (involving my own (Robert Hammond) 2013 FOIA requests) with alterations dated **September 29, 2014**, stating, “*No further actions requested after litigation No response given to requester CLOSED 9/29/2014*” Not only is September 29, 2014 after my May 27, 2014 and subsequent September 15, 2014 administrative appeals to DHA’s Cygnarowicz, the instant “litigation” was not filed until two years later on April 3, 2016, raising questions as to when the alterations above citing “*after litigation*” were made. See below:

13-53 and case 13-56:

“No further actions
requested after
litigation – No
response given to
requester.

CLOSED –
9/29/2014”

Dated Alteration (numerous)
AFTER the close of FY 2013 on
September 30, 2013, AFTER my
April 1, 2014 FOIA request and
AFTER my May 24, 2014 and
subsequent September 15, 2014
administrative appeals to Agency
Counsel Cygnarowicz.

Both Logs also have evident alterations, deletions within rows/and or deletions of entire rows.^[4]

Bizzell admits under oath to altering the original FY 2013 FOIA processing log to produce a 16-page Log that differed from the 17- page Log cited in Defendant’s Vaughn Index, although her account and that of Agency counsel(s) are at odds as to the extent of the alterations.^[5]

Destruction of Records. Accused Parties Individually and/or Collectively, et. al

Bizzell and Agency Counsel Cygnarowicz, et al., may have also unlawfully destroyed the following 6 specific records (which have never been produced in court); or they may be in imminent danger of being destroyed:

1. the Original Walter Reed FY 2013 FOIA Processing Log as it existed when submitted as Walter Reed’s FY 2013 Annual FOIA report, *purportedly* to Navy, Navy BUMED (page count unknown by me);
2. the forwarding correspondence to the Walter Reed FY 2013 FOIA Processing Log sent to Department of Navy (*presumed* to be an email from Bizzell with potentially multiple copy-to addressees (such as BUMED’s Della Garcia and Navy’s DONFOIA-PA office personnel (e.g., Robin Patterson)) and containing Walter Reed’s FY 2013 FOIA Processing Log as a PDF attachment);
3. the forwarding correspondence to the Walter Reed FY 2013 FOIA Processing Log potentially **also** sent to DHA (likely Nadine Brown) in addition to Navy (*presumed* to be an email from Bizzell with potentially multiple copy-to addressees and containing Walter Reed’s FY 2013 FOIA Processing Log as an attachment);
4. the Walter Reed FY 2013 FOIA Processing Log as it existed at the time of my April 1, 2014 FOIA Request (*purportedly* the Original);
5. the Walter Reed FY 2013 FOIA Processing Log as it existed when DHA’s Cygnarowicz reviewed my September 15, 2014 administrative appeal and upheld the Agency’s unlawful withholding under Exemption 5.
6. the 17-page Vaughn Index Walter Reed FY 2013 FOIA Processing Log cited by Accused Parties (who later removed their claim of withholding the record under Exemption 5, clearing its release (with only *fifteen* exemption (b)(6) redactions)).

Background.

1. On or about April 1, 2014, I submitted a FOIA request to the Department of Navy BUMED seeking all records and raw data of the Fiscal Year (“FY”) 2013 Annual FOIA Report submissions for Walter Reed as received by BUMED. See Dkt. No. 1, Complaint Ex. 3, at 20, 21.
2. My FOIA request also seeks the forwarding correspondence of Walter Reed’s FY 2013 Annual FOIA Report Submission, (*presumably* sent by email from Walter Reed’s FOIA Officer (Bizzell) to BUMED [and to OPNAV DNS-36, DONFIA-PA Office personnel] with the FY 2013 FOIA Processing Log as a PDF attachment).
3. On or about April 15, 2014 Navy BUMED referred my FOIA Request to Walter Reed. All the while, BUMED was getting quarterly statistical FOIA reports from Walter Reed, which were sent to DONFOIA-PA; Patterson, Robin L CIV OPNAV DNS 36 with copies to Garcia, Della W. GS BUMED. See Dkt. No. 1, Complaint Ex. 3, at 18, 20, 21; Dkt.24-12, Ex B-11 at 3.
4. On May 27, 2014, I appealed to DHA’s Appellate Authority, Cygnarowicz, that Walter Reed had not answered my FOIA request at all, and then on September 29, 2014, I appealed Walter Reed’s subsequent unlawful claim of Exemption (b)(5) in withholding the record, (which is required by the FOIA statute and 2016 FOIA Improvement Act to be released to the Public!).
5. On December 8, 2014, DHA’s Agency Counsel Paul T. Cygnarowicz denied my administrative appeal for these records under Exemption 5^[6], and, therefore, had the actual Walter Reed FY 2013 FOIA processing log that Bizzell alleges that she sent to Navy BUMED as Walter Reed’s FY 2013 Annual FOIA Report submission.
6. During litigation, by email (on Jun 28, 2016 at 11:43 PM), DOJ Lead Counsel (Braswell) sent my attorney the Accused Parties’ **Vaughn Index** citing a 17-page Walter Reed FOIA Processing Log responsive to my April 1, 2014 FOIA request as being withheld under Exemption 5 (as originally claimed, but then also citing Exemption 6 for certain portions, falsely alleged to be only the names of FOIA requesters seeking medical records).
7. The Proposed Vaughn Index is alleged to have been prepared by Agency Counsel Paul T. Cygnarowicz, and he allegedly possess or possessed that 17-page FY 2013 Walter Reed FOIA Processing Log cited in the Vaughn Index, as does Bizzell.
8. Walter Reed’s FY 2013 FOIA Processing Log cited in Accused Parties’ June 28, 2016 Proposed Vaughn Index is static. A **true copy** of that record has allegedly not been released and may have been or may about to be destroyed.
9. Walter Reed’s FY 2013 FOIA Processing Log, as sent to and received by BUMED/ became a finalized report (PDF) when submitted. It is **static**. (As a data point to the approximate time the Log was sent, in 2012 Walter Reed’s Bizzell sent Walter Reed’s similar FY 2103 FOIA processing Log to Navy, Navy BUMED via email with attached PDF on October 1, 2013, one day after the close of the FY).
10. A **true** copy of Walter Reed’s, unaltered, static FY 2013 FOIA Processing Log, as sent to and received by BUMED has incontrovertibly and verifiably not ever been released. It is presumed destroyed or in imminent danger of being destroyed.
11. During litigation (citing my April 1, 2014 FOIA Request to Navy BUMED seeking all records of the FY 2013 Annual FOIA Report Submission for Walter Reed, Dkt. No. 12, Amended Complaint ¶ 56), Accused Parties removed their claim of withholding the Original FY 2013 Log cited as Walter Reed’s FY 2013 Annual Report to BUMED (“WRNMMC FOIA Office will no longer withhold from plaintiff [me] the FY 2013 FOIA Report Submission for Walter Reed.”).
12. By memo dated March 9, 2017, Bizzell then released a materially-altered 16-page Walter Reed FOIA Processing Log (with redactions for *fifty-three* cases, citing Exemption 6 and citing Exemption 7). See Attachment A, 16-Page Log with Dated Material Alterations. Bizzell concurrently provided that same record to then DOJ Lead Counsel, Marina Braswell, claiming that it is the Log that Walter Reed sent as its FY 2013 Annual FOIA Report submission to BUMED/OPNAV. “*The FY13 FOIA Log is the only relevant "raw data" record of numbers the WRNMMC FOIA Office sent to BUMED for inclusion into the Congressional Report. See*

- Dkt. No. 26-1; *see also* Third Bizzell Decl. Section A. ¶ 11, 17; Dkt. No. 26, Supplemental Motion for Summary Judgement, at 6, 8; Dkt. No. 24-12, Ex. B-11, at 1 ¶ 1.c. (report sent to BUMED). [available at Pacer.gov]
13. All the while, Bizzell, DOJ Lead Counsel (Braswell) and DHA's Agency Counsel (Paul Cygnarowicz) were purportedly in possession of the different 17-page Walter Reed FY 2013 FOIA Processing Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index (and evidently also Walter Reed's Original, unaltered FY 2013 Log in the case of Bizzell and Cygnarowicz).
 14. On May 27, 2017, Bizzell then stated that she had removed her unlawful claim of Exemption (b) (7) entirely for Walter Reed's FY 2013 FOIA Processing Log as sent to/received by Navy BUMED/DONFOIA-PA and had reduced Exemption (b)(6) redactions from *fifty-three* cases to *fifteen* cases. Bizzell Third Decl., page 5. Footnote 2.^[7]
 15. Accused Parties did not then release any Walter Reed FY 2013 FOIA Processing Log with Exemption (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases, as promised (after withdrawing their withholding under Exemptions (b)(5) and (b)(7). *See* Third Bizzell Decl. ¶ 9, footnote 2.
 16. Then, on July 14, 2017, Judge Jackson ordered Accused Parties and me to appear on July 25, 2017 regarding records that Accused Parties falsely stated had been released but which had not released. Such records included Walter Reed's FY 2013 FOIA Processing Log, as sent to and received by BUMED/DONFOIA-PA with (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases. *See* Dkt. No 27; *see also* Dkt. No. 28 and Order of 7/14/2017.
 17. On July 24, 2017 at 5:01 PM, just before that appearance, DOJ's Lead Counsel sent my Counsel a version of Walter Reed's FY 2013 FOIA Processing Log with content and blank rows or lines that is identical to the 16-page materially-altered March 9, 2016 Bizzell memo Log (*with none of the fifty-three redactions reduced*), with the only difference being that it is 17 pages, making it appear to be the 17-page Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index. Though Accused Parties purport it to be, this 17-page Log, by virtue of its identical dated material-alterations alone cannot possibly be Walter Reed's FY 2013 FOIA Processing Log as sent to and received by Navy BUMED as Walter Reed's Annual FOIA Report submission/raw data. With dated alterations 364 days after the close of FY 2013, it is not a log provided to anyone as Walter Reed's FY 2013 FOIA report submission.
 18. In Court proceedings on 7/25/2017, DOJ Lead Counsel (accompanied DHA's Agency Counsel Paul Cygnarowicz) admitted that identical dated alterations had been made to **both** the 16-page March 9, 2016 Bizzell memo Log and the 17-page Log released the night of 7/24/2017 and that neither was Walter Reed's FY 2013 FOIA Processing Log as sent to and received by Navy BUMED as Walter Reed's Annual FOIA Report submission/raw data.
 19. DOJ's Lead Counsel (supported by DHA's Agency Counsel Paul Cygnarowicz) further admitted in Court proceedings on 7/25/2017, (apart from the incontrovertible dated alterations), that Bizzell altered the Original Walter Reed FOIA Processing Log from 17-pages during litigation to produce the 16-page Log accompanying her Memo dated March 9, 2017.
 20. **Again, after being caught, Bizzell admitted in her sworn declaration to altering during litigation** the (alleged) Original Walter Reed FOIA Processing Log from 17-pages to produce the 16-page Log accompanying her Memo dated March 9, 2017 and contends that the only difference to the Original Log, which has never been released is, (unbelievably): "The loss of a page was the result of **reformatting the font size to improve the FY13 FOIA Log's appearance.**" *See* Dkt. No. 26-1, Third Bizzell Decl. ¶ 8, sentence 8 and ¶ 7, sentence 4 (admissions of alterations).^[8]
 21. In as much as Accused Parties have never released Walter Reed's **true**, unaltered, static FY 2013 FOIA Processing Log, as sent to and received by BUMED, I do not know the true page count of that record, whether it be 16-pages, 17-pages, or some other number.
 22. I challenged that Bizzell had not produced a promised FY 2013 Log with redactions reduced from *fifty-three* exemption (b)(6) redactions to *fifteen* (as stated in her sworn declaration), and I opined (and Cygnarowicz is aware of this) that to do so Bizzell would have to: (a) again alter the 17-page version or the 16-page version already in evidence with dated alterations; or, (b) produce the actual, Original, unaltered Log that she states she submitted as Walter Reed's FY 2013 Annual

FOIA report to Navy, Navy BUMED without those dated alterations and make the reduced *fifteen* redactions to that Original unaltered Log.

23. Accused Parties then did not subsequently release any Walter Reed FY 2013 FOIA Processing Log with Exemption (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases, as promised (after withdrawing their withholding under Exemptions (b)(5) and (b)(7). See Third Bizzell Decla., ¶ 9, footnote 2.
24. Shortly thereafter, by coincidence or otherwise, DOJ’s Lead Counsel (Marina Braswell) (who had submitted records into evidence under her signature) withdrew from the case.

IV. APPLICABLE RETENTION SCHEDULE, NARA GRS 4.2 Item 20

020	<p>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</p>	<p>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.</p>	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 § 1230.3

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.)

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

With my respect,

/s/

Robert Hammond

January 31, 2021

Whistleblower

Attachments:

- A. 16-Page Log with Dated Material Alterations
- B. 17-Page Log with Dated Material Alterations

[1] A Vaughn Index is a document prepared by agencies that are opposing the disclosure of information under FOIA. The index must describe each document (or portion of each document) that has been withheld and provide a detailed justification of the agency's grounds for non-disclosure (i.e., the FOIA exemption relied upon must be stated). The term originates from the case of Vaughn v. Rosen [1]

Vaughn Indices are intended to permit a court "to make a rational decision [about] whether the withheld material must be produced without actually viewing the documents themselves." [2]

[2] Regardless of conflicting claims as to the records and to whom Bizzell may have given copies at some points in time, including during litigation. They are all federal records.

[3] Bizzell subsequently re-released the same materially-altered 17-page Log, stating only that it was a Log that she had previously released and had apparently given to DHA at some point in time.

[4] In the materially-altered Logs, there is a blank row at page 9 between the entries for requests 13-27 and 13-29 and there is no entry for request 13-28. There is a blank row at page 18 between requests 13-67 and 13-68. It

appears that content of some sort was removed with respect to the Vaughn Index Log and potentially the Original Log purportedly submitted to Navy.

[5] In contradiction to Bizzell's statement regarding no alterations other than a font size change, Accused Parties state in their Response that there was at least one other alteration "removal of an empty line to correct a numbering and spacing problem," See Dkt. No. 25-1 ¶¶ 54, 55. Bizzell did not state this. Bizzell stated under oath, "The loss of a page was the result of **reformatting the font size to improve the FY13 FOIA Log's appearance.**" Accused Parties have not released any such Log with a difference in the number of rows or "lines" from the 16-page Log to the 17-page Log due to a blank space. Cygnarowicz is evidently involved in entering known altered documents into evidence, while evidently possessing a copy of the unaltered record(s).

[6] There is no deliberative process in purely statistical reports and the information was antecedent when I sought this information, having already been incorporated into final reports. The FOIA Improvement Act of 2016 requires that Agencies proactively disclose the raw data used in compiling their reports.

Accused Parties have also not released the forwarding correspondence of Walter Reed's FY 2013 Annual FOIA Report Submission.

Accused Parties have also not released Walter Reed's 2nd, 3rd, and 4th Quarterly FOIA Reports submissions to BUMED/OPNAV, providing contemporaneous statistical data.

DOJ ordered these quarterly FOIA Reports a following a GAO audit of significant deficiencies in DOD's FOIA practices, including (among others): deficiencies in assignment of tracking numbers; reporting to DOJ; over-use of Exemptions (b)(5) and (b)(6); and other matters. See GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act at <http://www.gao.gov/products/GAO-12-828>.

[7] "Exemption (b) (6) was applied on the previously released FY13 FOIA Log to fifty-three requests for information. Having reviewed the FY13 FOIA Log again, I reduced Exemption (b) (6) redactions to only fifteen cases, those

which are requests for medical records, and, in an abundance of caution, those appearing to involve a request for medical records."

[8] While any alteration is a violation of law, a careful examination of both the 17-page Log and the 16-page log with respect to the text wrapping within each cell indicates that the difference is not as Bizzell states under oath as due to a font size change, but rather simply changing the page margins during printing after being caught. Also compare page margins. I believe that alterations from the Original Log are due to deletions of content and/or entire rows/lines. NARA should be wary of any records produced by Accused Parties and potential further false claims made about them. Further, the Original Log should not have any alterations after September 30, 2013, which is the close of FY 2013.

Recall: RRowan??+RE: typo. RE: + Cygnarowicz. RE: IMPORTANCE HIGH. DHA and WALTER REED not Navy.RE: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report

(b) (6) via Unauthorized Disposition <UnauthorizedDisposition@nara.gov> Sun, Feb 7, 2021 at 9:05 PM
Reply to (b) (6)
To: UnauthorizedDisposition <unauthorizeddisposition@nara.gov>
Cc: (b) (6)

(b) (6) would like to recall the message, "RRowan??+RE: typo RE + Cygnarowicz RE IMPORTANCE HIGH DHA and WALTER REED not Navy.RE: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report".

 winmail.dat
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Recall: RRowan??+RE: typo. RE: + Cygnarowicz. RE: IMPORTANCE HIGH. DHA and WALTER REED not Navy.RE: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report

(b) (6) via Unauthorized Disposition <UnauthorizedDisposition@nara.gov> Sun, Feb 7, 2021 at 9:56 PM
Reply to (b) (6)
To: UnauthorizedDisposition <unauthorizeddisposition@nara.gov>
Cc: (b) (6)

(b) (6) would like to recall the message, "RRowan??+RE: typo RE + Cygnarowicz RE IMPORTANCE HIGH DHA and WALTER REED not Navy.RE: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report".

 winmail.dat
2K

FW: RRowan??+RE: typo. RE: + Cygnarowicz. RE: IMPORTANCE HIGH. DHA and WALTER REED not Navy.RE: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report

1 message

(b) (6) via Unauthorized Disposition UnauthorizedDisposition@nara.gov Sun, Feb 7, 2021 at 9 55 PM
Reply-to: (b) (6)
To: UnauthorizedDisposition <unauthorizeddisposition@nara.gov>
Cc: (b) (6)

For clarification, the File>Properties location path: Location: c:\Users\15713 ..., simply shows that the 17-page Log copy that I am attaching came directly from Bra well' Jul 24, 2017 at 5 01 PM email and it is authentic. It is the same 17 page Log that I provided you with my Complaint, but I did not provide it to you as a separate document in order for you to see the File Properties.

Again, the significant point is that 17-page Log was produced from a source document: Microsoft Word - WRNMMC FY 14 FOIA PROCESSING LOG.Redacted.docx.

I do not know who "Author: RRowan" is or who provided that source document to said person for printing or if Author: RRowan" played a larger role. Either way, this gives you a point of reference for identifying and seeking this and other source documents from Walter Reed and DHA discussed in my emails below.

Thank you.

With my respect,

Robert Hammond

From: (b) (6)
Sent: Saturday, February 6, 2021 8 48 PM
To: 'UnauthorizedDisposition' <unauthorizeddisposition@nara.gov>
Cc: (b) (6)
Subject: RE: RRowan??+RE: typo. RE: + Cygnarowicz. RE: IMPORTANCE HIGH. DHA and WALTER REED not Navy RE: NARA Complaint Alteration & Destruction of Record ICO Walter Reed' FY 2013 FOIA Report

In furtherance to below, there is no question whatsoever that records were altered during litigation and potentially prior to litigation.

Let's get to the bottom of who altered records, when, how and at whose direction / with whose knowledge. (e.g., who gave it to Author RRowan?? [Location: c:\Users\15713 ...] AND others?)

Is

4. Please compel the Agencies to produce the source documents (presumed to be MS Word) from which the subject 16-page Log, 17 page Log and Vaughn Inde Log (which ha never been relea ed) were produced

5 Then, plea e compel the Agencie to produce the ame MS Word (or other) ource document u ed to produce the Log allegedly send to Navy as Walter Reed's data for the FY 2013 Annual FOIA report and those same source records as they existed at the time of my FOIA request, Appeal(s) and Cygnarowicz' appellate determination on December 8, 2015.

These source records will also validate the "font size" of each record and the page margins, etc., to factually account for the differences in resultant PDF page numbers

Note, that in addition to Bizzell, DHA likely holds those same source documents (e.g., likely Cygnarowicz).

Thank you, again..

With my respect,

Robert Hammond

From: (b) (6)
Sent: Saturday, February 6, 2021 5:59 PM
To: 'UnauthorizedDisposition' <unauthorizeddisposition@nara.gov>
Cc: (b) (6)
Subject: RRowan??+RE: typo. RE: + Cygnarowicz. RE: IMPORTANCE HIGH. DHA and WALTER REED not Navy.RE: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report

NARA Unauthorized Disposition Team,

With my deep respect...

As to when the 17-page Log was created and by whom, I am sending you the original PDF sent to my attorney by DOJ's **Braswell, Marina (USADC)** <Marina.Braswell@usdoj.gov> at Date: Mon, Jul 24, 2017 at 5:01 PM, showing in the document File Propertie that it wa created after the Bizzell March 9, 2017 16 page log

By: RRowan

On: Created 7/24/2017 3:18.01 PM

From: Microsoft Word - WRNMMC FY 13 FOIA PROCESSING LOG (redacted - B6 Only).docx

Please include these facts in your analysis as to the two materially-altered Logs. Pls ascertain the source records held by RRowan in creating the 17-page PDF and said person's role. Again the PDF source record is a Microsoft Word document, whereas the Original Log may have been created from MS Excel

/

1. I am still concerned that Walter Reed and DHA record officer will be misled and that NARA will be misled
2. May I ask that you will confirm that I will have an opportunity to review your finding and/or the Agency's response before you issue a final decision on the matters?
3. May I ask if a case number has been established, and if so what it is.

Thank you.

With my respect,

Robert Hammond

From: (b) (6)
Sent: Tuesday, February 2, 2021 1:33 PM
To: 'UnauthorizedDisposition' <unauthorizeddisposition@nara.gov>; 'Andrea Riley' <andrea.riley@nara.gov>; 'GRS Team' <GRS_Team@nara.gov>; 'Jametta Davis' <UnauthorizedDisposition@nara.gov>
Cc: (b) (6)
Subject: typo RE + Cygnarowicz RE IMPORTANCE HIGH DHA and WALTER REED not Navy RE NARA Complaint Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report

Typo correction. Sorry.

Change from

“He has admitted to seeing the Vaughn Index Log (if he in fact did not personally produce it)”

To:

“He has admitted to seeing the Vaughn Index Log (if he in fact did not personally produce the Vaughn Index (not the Log.)”

Thx.

From: (b) (6)
Sent: Tuesday, February 2, 2021 12:09 PM
To: 'UnauthorizedDisposition' <unauthorizeddisposition@nara.gov>; 'Andrea Riley' <andrea.riley@nara.gov>; 'GRS Team' <GRS_Team@nara.gov>; 'Jametia Davis' <UnauthorizedDisposition@nara.gov>
Cc: (b) (6)
Subject: + Cygnarowicz. RE: IMPORTANCE HIGH. DHA and WALTER REED not Navy.RE: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report

Thank you very much for your prompt reply.

Please examine carefully DHA's Deputy General Counsel Paul T. Cygnarowicz' role in (potentially) submitting known materially-altered records into evidence, and potentially more. He personally acted on my 2014 administrative appeals seeking the records.

He has admitted to seeing the Vaughn Index Log (if he in fact did not personally produce it), and to his knowledge of resultant 16-page to 17-page count alterations (to that or another Log) during court proceedings. Unlawful in my view as a layperson. Don't know the actual page count of the Vaughn Index log cited as 17-pages, which is a record that should be produced to NARA.

It is not unthinkable, in my opinion, that he may have advised Bizzell how to respond to the page count differences (once caught) and potentially how to produce a 17-page Log to enter into evidence with identical dated alterations to the 16-page Log. Neither Log is a Log that existed at the time of my FOIA request or appeal, based on dated alterations through September 29, 2014 alone. When each litigation evidence Log was produced, how (and by whom) are germane to unravelling this matter.

Without addressing the dated alterations in the Logs placed into evidence, and while denying culpability, Cygnarowicz has asserted outside of litigation:

1. "And even had the Agency falsified or otherwise altered documents, if that happened pre-litigation, Mr. Cygnarowicz—as FOIA agency counsel— did not create or alter any documents the Agency produced to Hammond."
2. Further, "Hypothetically, if any alteration occurred after Hammond sued, Mr. Cygnarowicz's role during that period was to act as the liaison between the Assistant United States Attorney handling the litigation for the Agency and the Agency."

This stinks. In my opinion, rat deserting a sinking ship to leave other lower-level folks like poor Ms. Bizzell (presumably GS-11) holding the bag alone. Worse yet, Cygnarowicz is a high-ranking, field grade Reservist Military Officer, which offends me.

In my view, potentially with proper advice from Counsel, this may have all ended in 2014 without anyone getting into trouble. Very sad.

With my respect,

Robert Hammond

From: UnauthorizedDisposition <unauthorizeddisposition@nara.gov>
Sent: Monday, February 1, 2021 3:49 PM
To: (b) (6); Andrea Riley <andrea.riley@nara.gov>; GRS_Team <GRS_Team@nara.gov>
Subject: Re: IMPORTANCE HIGH. DHA and WALTER REED not Navy.RE: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed's FY 2013 FOIA Report

Good afternoon,

NARA is aware that this issue is separate from the ongoing case with the Navy. Thanks.

NARA

Oversight and Reporting Team

On Mon, Feb 1, 2021 at 3:37 PM (b) (6) via Unauthorized Disposition <UnauthorizedDisposition@nara.gov> wrote:

Ms. Davis and NARA unauthorized disposition staff,

This is a completely different matter, separate from Navy, involving alteration of records during litigation by Walter Reed and DHA and further destruction of records.

Please promptly confirm that you are not combining these distinctly different Complaints against different agencies with different allegations.

Pls see below.

I. ALLEGATION.

I am alleging that:

1. The Walter Reed National Military Medical Center (“Walter Reed” or “WRNMMC”) FOIA Officer, **Judy J. Bizzell**, and/or others, materially altered multiple times & multiple copies of a document sought under FOIA and other subsequent federal record litigation evidentiary versions both prior to and **ADMITTEDLY** during litigation, and Defense Health Agency (“DHA”) **Agency Counsel Paul T. Cygnarowicz** allegedly had knowledge of those alterations, but nevertheless entered altered documents (which are also official records) into evidence, participating in such alleged malfeasance.
2. Original records and official federal record litigation evidentiary copies may have been destroyed or may be in imminent danger of being destroyed.

Federal entities (a) Walter Reed and (b) DHA, and no other entities, and employees (1) Bizzell and (2) Cygnarowicz are “Accused Parties” for the purpose of this narrow complaint (not to be combined with any other complaint). While Walter Reed is currently a subordinate entity of DHA, they each have their own accountable records officers/managers.

Thank you in advance for your integrity and perseverance.

With my respect,

Robert Hammond

Whistleblower

From: Jametta Davis <UnauthorizedDisposition@nara.gov>

Sent: Monday, February 1, 2021 2:20 PM

To: (b) (6)

Subject: Re: NARA Complaint. Alteration & Destruction of Records ICO Walter Reed’s FY 2013 FOIA Report

Dear Mr. Hammond,

Thank you for providing the additional information. We are continuing to work with the Navy to get this matter resolved.

On Mon, Feb 1, 2021 at 8:04 AM (b) (6) via Unauthorized Disposition <UnauthorizedDisposition@nara.gov> wrote:

(Best Viewed as HTML. Thx.)

Pls see below and the complete PDF complaint with footnotes and attachments, “NARA Complaint. Alteration & Destruction of Records ICO Walter Reed FY 2013 FOIA Report w. attach.pdf.” A soft copy of Complaint narrative is also attached to assist you.

Thank you in advance for your integrity and perseverance.

With my respect,

Robert Hammond

Whistleblower

January 31, 2021

NARA Complaint. Alteration & Destruction of Records

ICO Walter Reed's FY 2013 FOIA Report

I. ALLEGATION.

I am alleging that:

1. The Walter Reed National Military Medical Center (“Walter Reed” or “WRNMMC”) FOIA Officer, **Judy J. Bizzell**, and/or others, materially altered multiple times & multiple copies of a document sought under FOIA and other subsequent federal record litigation evidentiary versions both prior to and **ADMITTEDLY** during litigation, and Defense Health Agency (“DHA”) **Agency Counsel Paul T. Cygnarowicz** allegedly had knowledge of those alterations, but nevertheless entered altered documents (which are also official records) into evidence, participating in such alleged malfeasance.
- 2 Original records and official federal record litigation evidentiary copies may have been destroyed or may be in imminent danger of being destroyed.

Federal entities (a) Walter Reed and (b) DHA, and no other entities, and employees (1) Bizzell and (2) Cygnarowicz are “Accused Parties” for the purpose of this narrow complaint (not to be combined with any other complaint) While Walter Reed is currently a subordinate entity of DHA, they each have their own accountable records officers/managers.

Given that multiple of the named Accused Parties purportedly possessed copies of subject records during litigation, each record copy is therefore its own evidentiary federal record and must be accounted for and addressed as to alterations

Walter Reed and DHA have made multiple materially false and conflicting statements and inaccurate submissions to the Court regarding these records, heightening the likelihood of ongoing and/or further records destruction. Absent NARA’s intervention, there is a high likelihood that records that have not already been destroyed will imminently be destroyed by Accused Parties *“Oh what a tangled web we weave when first we practice to deceive.”*

Only the actual production to NARA of each cited record by each Accused Party will suffice as proof that each record has not been destroyed.

As to citations in this complaint to District Court of Columbia in Civil Action No. 16-421 (KBJ) documents, Accused Parties hold those records, and they are also available from Pacert.gov.

II. ACTION SOUGHT.

1. Notify: (1) DHA and (2) 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. Promptly affirm the uncontroverted and admitted alteration of records. State in your findings exactly which record copies were altered (e.g., Original FY 2013 Walter Reed FOIA Processing Log as it existed at the time it was submitted as Walter Reed's FY 2013 Annual report, allegedly to Navy, Navy BUMED), who made each alteration, and when each alteration was made.
5. Affirm that DHA Agency Counsel Cygnarowicz was aware of material alterations, but nevertheless entered altered documents into evidence thru DOJ counsels. Cygnarowicz has stated that he reviewed DOJ documents prior to submission to the Court, and record evidence appears to document that he was fully aware of the alterations prior to doing so (and may have communicated with Bizzell regarding same). He is also believed to have prepared DHA's Vaughn Index^[1] citing a 17-page Log prior to the materially-altered 16-page Log being released by Bizzell (as discussed below). Any participation in placing known altered documents into Court records must be documented. There is no Attorney-Client privilege or shield regarding such participation in alleged malfeasance.
6. If any records have not been destroyed, seek that each Accused Party provide to you each specifically enumerated record/record set in their possession, identifying by name who held the record, along with a record count and page number count for each record to prove their existence. Absent the Accused Parties producing each specifically enumerated record/record set for your verification to prove their existence, NARA will likely be mis-lead. 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.

The records in question are the Original record of Walter Reed's FY 2013 FOIA processing log that I sought via FOIA on or about April 1, 2014 that Bizzell alleges that she sent to Navy, Navy/BUMED as Walter Reed's FY 2013 Annual FOIA Report Submission (along with the forwarding correspondence thereto) and other subsequent federal record evidentiary versions of that same Original record.^[2] See below.

Alterations. Accused Parties Individually and/or Collectively, et. al:

1. First, Bizzell **altered both** a 16-page version and a 17-page version of the alleged Original record to produce two altered records during court proceedings with identical, multiple dated alterations (in the "Comment" column) after my April 1, 2014 FOIA request, after my May 27, 2014 and subsequent September 15, 2014 administrative appeals, and nearly a full year after the close of

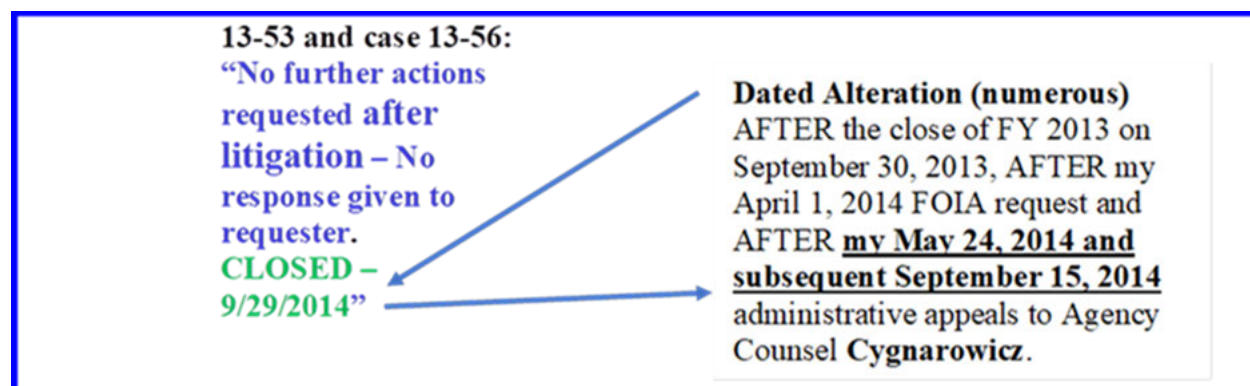
FY 2013 on September 30, 2013. Even these incontrovertible alterations of the Original record may have occurred during litigation, which began on March 3, 2016.

2. Second, Bizzell **also admits to altering, during litigation**, a 17-page Log (cited in a Vaughn Index or the Original, unaltered Log, if different) to produce the 16-page Log cited above. Note, the page count of the Original, unaltered record (a **true** copy of which has never been produced) is unknown by me, such that it is not clear which Log was altered to produce the materially-altered 16-page Log.

I challenged that Bizzell had not produced a promised FY 2013 Log with redactions reduced from *fifty-three* exemption (b)(6) redactions to *fifteen* (as stated in her sworn declaration), and I opined (and Cygnarowicz is aware of this) that to do so Bizzell would have to: (a) again alter the 17-page version or the 16-page version already in evidence with dated alterations; or, (b) produce the actual, Original, unaltered Log that she states she submitted as Walter Reed's FY 2013 Annual FOIA report to Navy, Navy BUMED without those dated alterations and make the reduced *fifteen* redactions to that Original unaltered Log. Bizzell and Accused Parties then refused to release any Log with redactions reduced to *fifteen*. Shortly thereafter, by coincidence or otherwise, DOJ's Lead Counsel (Marina Braswell) (who had submitted records into evidence under her signature) withdrew from the case.^[3]

Bizzell first released a materially-altered 16-page version of the alleged Original Log (and that version contained dated alterations such that it cannot be the Original Log), and then she released a 17-page version of that very same 16-page log containing the same dated alterations.

Both records produced contain identical multiple dated alterations in the "Comment" column after my April 1, 2014 FOIA request, after my May 27, 2014 and subsequent September 15, 2014 administrative appeals to DHA's Cygnarowicz, and nearly a full year after the close of FY 2013 on September 30, 2013. Neither, therefore, can be the Original Log. See Attachment A, 16-Page Log with Dated Material Alterations and Attachment B, 17-Page Log with Dated Material Alterations. For example, see identical comments to Walter Reed's FY 2013 FOIA Log case 13-53 and case 13-56 (involving my own (Robert Hammond) 2013 FOIA requests) with alterations dated **September 29, 2014**, stating, "*No further actions requested after litigation – No response given to requester. CLOSED – 9/29/2014.*" Not only is September 29, 2014 after my May 27, 2014 and subsequent September 15, 2014 administrative appeals to DHA's Cygnarowicz, the instant "litigation" was not filed until two years later on April 3, 2016, raising questions as to when the alterations above citing "*after litigation*" were made. See below:



Both Logs also have evident alterations, deletions within rows/and or deletions of entire rows.^[4]

Bizzell admits under oath to altering the original FY 2013 FOIA processing log to produce a 16-page Log that differed from the 17- page Log cited in Defendant's Vaughn Index, although her account and that of Agency counsel(s) are at odds as to the extent of the alterations.^[5]

Destruction of Records. Accused Parties Individually and/or Collectively, et. al

Bizzell and Agency Counsel Cygnarowicz, et al., may have also unlawfully destroyed the following **6** specific records (which have never been produced in court); or they may be in imminent danger of being destroyed:

1. the Original Walter Reed FY 2013 FOIA Processing Log as it existed when submitted as Walter Reed's FY 2013 Annual FOIA report, *purportedly* to Navy, Navy BUMED (page count unknown by me);
2. the forwarding correspondence to the Walter Reed FY 2013 FOIA Processing Log sent to Department of Navy (*presumed* to be an email from Bizzell with potentially multiple copy-to addressees (such as BUMED's Della Garcia and Navy's DONFOIA-PA office personnel (e.g., Robin Patterson)) and containing Walter Reed's FY 2013 FOIA Processing Log as a PDF attachment);
3. the forwarding correspondence to the Walter Reed FY 2013 FOIA Processing Log potentially **also** sent to DHA (likely Nadine Brown) in addition to Navy (*presumed* to be an email from Bizzell with potentially multiple copy-to addressees and containing Walter Reed's FY 2013 FOIA Processing Log as an attachment);
4. the Walter Reed FY 2013 FOIA Processing Log as it existed at the time of my April 1, 2014 FOIA Request (*purportedly* the Original);
5. the Walter Reed FY 2013 FOIA Processing Log as it existed when DHA's Cygnarowicz reviewed my September 15, 2014 administrative appeal and upheld the Agency's unlawful withholding under Exemption 5.
6. the 17-page Vaughn Index Walter Reed FY 2013 FOIA Processing Log cited by Accused Parties (who later removed their claim of withholding the record under Exemption 5, clearing its release (with only *fifteen* exemption (b)(6) redactions)).

Background.

1. On or about April 1, 2014, I submitted a FOIA request to the Department of Navy BUMED seeking all records and raw data of the Fiscal Year ("FY") 2013 Annual FOIA Report submissions for Walter Reed as received by BUMED. See Dkt. No. 1, Complaint Ex. 3, at 20, 21.
2. My FOIA request also seeks the forwarding correspondence of Walter Reed's FY 2013 Annual FOIA Report Submission, (*presumably* sent by email from Walter Reed's FOIA Officer (Bizzell) to BUMED [and to OPNAV DNS-36, DONFIA-PA Office personnel] with the FY 2013 FOIA Processing Log as a PDF attachment).

3. On or about April 15, 2014 Navy BUMED referred my FOIA Request to Walter Reed. All the while, BUMED was getting quarterly statistical FOIA reports from Walter Reed, which were sent to DONFOIA-PA; Patterson, Robin L CIV OPNAV DNS 36 with copies to Garcia, Della W. GS BUMED. *See* Dkt. No. 1, Complaint Ex. 3, at 18, 20, 21; Dkt.24-12, Ex B-11 at 3.
4. On May 27, 2014, I appealed to DHA's Appellate Authority, Cygnarowicz, that Walter Reed had not answered my FOIA request at all, and then on September 29, 2014, I appealed Walter Reed's subsequent unlawful claim of Exemption (b)(5) in withholding the record, (which is required by the FOIA statute and 2016 FOIA Improvement Act to be released to the Public!).
5. On December 8, 2014, DHA's Agency Counsel Paul T. Cygnarowicz denied my administrative appeal for these records under Exemption 5^[6], and, therefore, had the actual Walter Reed FY 2013 FOIA processing log that Bizzell alleges that she sent to Navy BUMED as Walter Reed's FY 2013 Annual FOIA Report submission.
6. During litigation, by email (on Jun 28, 2016 at 11:43 PM), DOJ Lead Counsel (Braswell) sent my attorney the Accused Parties' **Vaughn Index** citing a 17-page Walter Reed FOIA Processing Log responsive to my April 1, 2014 FOIA request as being withheld under Exemption 5 (as originally claimed, but then also citing Exemption 6 for certain portions, falsely alleged to be only the names of FOIA requesters seeking medical records).
7. The Proposed Vaughn Index is alleged to have been prepared by Agency Counsel Paul T. Cygnarowicz, and he allegedly possess or possessed that 17-page FY 2013 Walter Reed FOIA Processing Log cited in the Vaughn Index, as does Bizzell.
8. Walter Reed's FY 2013 FOIA Processing Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index is static. A **true copy** of that record has allegedly not been released and may have been or may about to be destroyed.
9. Walter Reed's FY 2013 FOIA Processing Log, as sent to and received by BUMED/ became a finalized report (PDF) when submitted. It is **static**. (As a data point to the approximate time the Log was sent, in 2012 Walter Reed's Bizzell sent Walter Reed's similar FY 2103 FOIA processing Log to Navy, Navy BUMED via email with attached PDF on October 1, 2013, one day after the close of the FY).
10. A **true** copy of Walter Reed's, unaltered, static FY 2013 FOIA Processing Log, as sent to and received by BUMED has incontrovertibly and verifiably not ever been released. It is presumed destroyed or in imminent danger of being destroyed.
11. During litigation (citing my April 1, 2014 FOIA Request to Navy BUMED seeking all records of the FY 2013 Annual FOIA Report Submission for Walter Reed, Dkt. No. 12, Amended Complaint ¶ 56), Accused Parties removed their claim of withholding the Original FY 2013 Log cited as Walter Reed's FY 2013 Annual Report to BUMED ("WRNMMC FOIA Office will no longer withhold from plaintiff [me] the FY 2013 FOIA Report Submission for Walter Reed.").
12. By memo dated March 9, 2017, Bizzell then released a materially-altered 16-page Walter Reed FOIA Processing Log (with redactions for *fifty-three* cases, citing Exemption 6 and citing Exemption 7). *See* Attachment A, 16-Page Log with Dated Material Alterations. Bizzell concurrently provided that same record to then DOJ Lead Counsel, Marina Braswell, claiming that it is the Log that Walter Reed sent as its FY 2013 Annual FOIA Report submission to BUMED/OPNAV. "*The FY13 FOIA Log is the only relevant "raw data" record of numbers the WRNMMC FOIA Office sent to BUMED for inclusion into the Congressional Report. See* Dkt. No. 26-1; *see also* Third Bizzell Decl. Section A. ¶ 11, 17; Dkt. Dkt. No. 26, Supplemental Motion for Summary Judgement, at 6, 8; Dkt. No. 24-12, Ex. B-11, at 1 ¶ 1.c. (report sent to BUMED). [available at Pacer.gov]
13. All the while, Bizzell, DOJ Lead Counsel (Braswell) and DHA's Agency Counsel (Paul Cygnarowicz) were purportedly in possession of the different 17-page Walter Reed FY 2013 FOIA Processing Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index (and evidently also Walter Reed's Original, unaltered FY 2013 Log in the case of Bizzell and Cygnarowicz).
14. On May 27, 2017, Bizzell then stated that she had removed her unlawful claim of Exemption (b) (7) entirely for Walter Reed's FY 2013 FOIA Processing Log as sent to/received by Navy

- BUMED/DONFOIA-PA and had reduced Exemption (b)(6) redactions from *fifty-three* cases to *fifteen* cases. Bizzell Third Decl., page 5. Footnote 2.^[7]
15. Accused Parties did not then release any Walter Reed FY 2013 FOIA Processing Log with Exemption (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases, as promised (after withdrawing their withholding under Exemptions (b)(5) and (b)(7). See Third Bizzell Decl. ¶ 9, footnote 2.
 16. Then, on July 14, 2017, Judge Jackson ordered Accused Parties and me to appear on July 25, 2017 regarding records that Accused Parties falsely stated had been released but which had not released. Such records included Walter Reed's FY 2013 FOIA Processing Log, as sent to and received by BUMED/DONFOIA-PA with (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases. See Dkt. No 27; see also Dkt. No. 28 and Order of 7/14/2017.
 17. On July 24, 2017 at 5:01 PM, just before that appearance, DOJ's Lead Counsel sent my Counsel a version of Walter Reed's FY 2013 FOIA Processing Log with content and blank rows or lines that is identical to the 16-page materially-altered March 9, 2016 Bizzell memo Log (*with none of the fifty-three redactions reduced*), with the only difference being that it is 17 pages, making it appear to be the 17-page Log cited in Accused Parties' June 28, 2016 Proposed Vaughn Index. Though Accused Parties purport it to be, this 17-page Log, by virtue of its identical dated material-alterations alone cannot possibly be Walter Reed's FY 2013 FOIA Processing Log as sent to and received by Navy BUMED as Walter Reed's Annual FOIA Report submission/raw data. With dated alterations 364 days after the close of FY 2013, it is not a log provided to anyone as Walter Reed's FY 2013 FOIA report submission.
 18. In Court proceedings on 7/25/2017, DOJ Lead Counsel (accompanied DHA's Agency Counsel Paul Cygnarowicz) admitted that identical dated alterations had been made to **both** the 16-page March 9, 2016 Bizzell memo Log and the 17-page Log released the night of 7/24/2017 and that neither was Walter Reed's FY 2013 FOIA Processing Log as sent to and received by Navy BUMED as Walter Reed's Annual FOIA Report submission/raw data.
 19. DOJ's Lead Counsel (supported by DHA's Agency Counsel Paul Cygnarowicz) further admitted in Court proceedings on 7/25/2017, (apart from the incontrovertible dated alterations), that Bizzell altered the Original Walter Reed FOIA Processing Log from 17-pages during litigation to produce the 16-page Log accompanying her Memo dated March 9, 2017.
 20. **Again, after being caught, Bizzell admitted in her sworn declaration to altering during litigation** the (alleged) Original Walter Reed FOIA Processing Log from 17-pages to produce the 16-page Log accompanying her Memo dated March 9, 2017 and contends that the only difference to the Original Log, which has never been released is, (unbelievably): "The loss of a page was the result of **reformatting the font size to improve the FY13 FOIA Log's appearance.**" See Dkt. No. 26-1, Third Bizzell Decl. ¶ 8, sentence 8 and ¶ 7, sentence 4 (admissions of alterations).^[8]
 21. In as much as Accused Parties have never released Walter Reed's **true**, unaltered, static FY 2013 FOIA Processing Log, as sent to and received by BUMED, I do not know the true page count of that record, whether it be 16-pages, 17-pages, or some other number.
 22. I challenged that Bizzell had not produced a promised FY 2013 Log with redactions reduced from *fifty-three* exemption (b)(6) redactions to *fifteen* (as stated in her sworn declaration), and I opined (and Cygnarowicz is aware of this) that to do so Bizzell would have to: (a) again alter the 17-page version or the 16-page version already in evidence with dated alterations; or, (b) produce the actual, Original, unaltered Log that she states she submitted as Walter Reed's FY 2013 Annual FOIA report to Navy, Navy BUMED without those dated alterations and make the reduced *fifteen* redactions to that Original unaltered Log.
 23. Accused Parties then did not subsequently release any Walter Reed FY 2013 FOIA Processing Log with Exemption (b)(6) redactions reduced from *fifty-three* cases to *fifteen* cases, as promised (after withdrawing their withholding under Exemptions (b)(5) and (b)(7). See Third Bizzell Decl., ¶ 9, footnote 2.
 24. Shortly thereafter, by coincidence or otherwise, DOJ's Lead Counsel (Marina Braswell) (who had submitted records into evidence under her signature) withdrew from the case.

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
-----	---	---	------------------------

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 § 1230.3

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.)

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

With my respect,

/s/

Robert Hammond

January 31, 2021

Whistleblower

Attachments:

- A. 16-Page Log with Dated Material Alterations
- B. 17-Page Log with Dated Material Alterations

[1] A Vaughn Index is a document prepared by agencies that are opposing the disclosure of information under FOIA. The index must describe each document (or portion of each document) that has been withheld and provide a detailed justification of the agency's grounds for non-disclosure (i.e., the FOIA exemption relied upon must be stated). The term originates from the case of Vaughn v. Rosen [1]

Vaughn Indices are intended to permit a court "to make a rational decision [about] whether the withheld material must be produced without actually viewing the documents themselves." [2]

[2] Regardless of conflicting claims as to the records and to whom Bizzell may have given copies at some points in time, including during litigation. They are all federal records.

[3] Bizzell subsequently re-released the same materially-altered 17-page Log, stating only that it was a Log that she had previously released and had apparently given to DHA at some point in time.

[4] In the materially-altered Logs, there is a blank row at page 9 between the entries for requests 13-27 and 13-29 and there is no entry for request 13-28. There is a blank row at page 18 between requests 13-67 and 13-68. It appears that content of some sort was removed with respect to the Vaughn Index Log and potentially the Original Log purportedly submitted to Navy.

[5] In contradiction to Bizzell's statement regarding no alterations other than a font size change, Accused Parties state in their Response that there was at least one other alteration "removal of an empty line to correct a numbering and spacing problem," See Dkt. No. 25-1 ¶¶ 54, 55. Bizzell did not state this. Bizzell stated under oath, "The loss of a page was the result of **reformatting the font size to improve the FY13 FOIA Log's appearance.**" Accused Parties have not released any such Log with a difference in the number of rows or "lines" from the 16-page Log to the 17-page Log due to a blank space. Cygnarowicz is evidently involved in entering known altered documents into evidence, while evidently possessing a copy of the unaltered record(s).

[6] There is no deliberative process in purely statistical reports and the information was antecedent when I sought this information, having already been incorporated into final reports. The FOIA

Improvement Act of 2016 requires that Agencies proactively disclose the raw data used in compiling their reports.

Accused Parties have also not released the forwarding correspondence of Walter Reed's FY 2013 Annual FOIA Report Submission.

Accused Parties have also not released Walter Reed's 2nd, 3rd, and 4th Quarterly FOIA Reports submissions to BUMED/OPNAV, providing contemporaneous statistical data.

DOJ ordered these quarterly FOIA Reports a following a GAO audit of significant deficiencies in DOD's FOIA practices, including (among others): deficiencies in assignment of tracking numbers; reporting to DOJ; over-use of Exemptions (b)(5) and (b)(6); and other matters. See GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act at <http://www.gao.gov/products/GAO-12-828>.

[7] "Exemption (b) (6) was applied on the previously released FY13 FOIA Log to fifty-three requests for information. Having reviewed the FY13 FOIA Log again, I reduced Exemption (b) (6) redactions to only fifteen cases, those

which are requests for medical records, and, in an abundance of caution, those appearing to involve a request for medical records."

[8] While any alteration is a violation of law, a careful examination of both the 17-page Log and the 16-page log with respect to the text wrapping within each cell indicates that the difference is not as Bizzell states under oath as due to a font size change, but rather simply changing the page margins during printing after being caught. Also compare page margins. I believe that alterations from the Original Log are due to deletions of content and/or entire rows/lines. NARA should be wary of any records produced by Accused Parties and potential further false claims made about them. Further, the Original Log should not have any alterations after September 30, 2013, which is the close of FY 2013.



WRNMMC FY 13 FOIA PROCESSING LOG (redacted - B6 Only).pdf

129K

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.wimbuhjeffrey@nara.gov
To: Jametta Davis <jametta.davis@nara.gov>

Wed, Feb 24, 2021 at 11:06 AM

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.wimbuhjeffrey@nara.gov

Cc: 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

(US) (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-2021-0020_DOD DHA_Open Letter_1301-1b

Laurence Brewer <laurence.brewer@nara.gov>

Fri, Feb 26, 2021 at 11:18 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 2:36 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 third of multiple letters associated with this case.

Let us know if you would like a meeting to discuss.

Thanks,

Don
Donald Rosen
Director Record Management Oversight and Reporting
Office of the Chief Records Officer
301 837 3426

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

From **Evangela Wimbush Jeffrey** <evangela.wimbushjeffrey@nara.gov>

Date: Wed, Feb 17, 2021 at 12:08 PM

Subject: Fwd: CORRESPONDENCE -- UD-2021-0020_DOD DHA_Open Letter_1301-1b

To: Donald Rosen <donald.rosen@nara.gov>

Cc: Jametta Davis <jametta.davis@nara.gov>

Good afternoon,

Here is the final "open" correspondence for DoD/DHA. As previously mentioned, this allegation was separated into three parts (letters) due to the complexity of the allegation. 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-2021-0020_DOD DHA_Open Letter_1301-1b

To: Evangela Wimbush Jeffrey <evangela.wimbushjeffrey@nara.gov>

Good Afternoon Evangela,

Routing list

1. Evangela Wimbush-Jeffrey
2. Don Rosen
3. Laurence Brewer
4. Tina Chase Fomukung
5. Jametta Davis

Please review

 2021-01-31_UD-2021-0020_DOD-DHA_RUD.pdf

 2021 02 16 UD 2021 0020 DOD DHA Open Letter 130

--

Jametta A. Davis, 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: (b) (6)

Blog: [Records Express](#)





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 a FOIA request on or about April 1, 2014, WRNMMC altered and unlawfully destroyed FY 2013 FOIA processing logs and related communication records.

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. In addition, please verify whether the provided responsive records were altered, aside from normal FOIA procedures.

NARA also 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 R. Brewer". The signature is written in a cursive style with a large initial 'L' and 'B'.

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>
To: Jametta Davis <jametta.davis@nara.gov>

Mon, Mar 1, 2021 at 9:49 AM

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.wimbushjeffrey@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.wimbushjeffrey@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 UDs 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-2021-0020)

Jametta Davi jametta davi @nara gov

Tue, Mar 2, 2021 at 11:37 AM

To: "Ortiz, Luz D CIV WHS ESD (USA)" <luz.d.ortiz.civ@mail.mil>, "Welch, Sebastian" <sebastian.welch@nara.gov>, "Hawkins, Margaret" <margaret.hawkins@nara.gov>
Bcc: Karyn Skevakis <karyn.skevakis@nara.gov>

Dear M 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 0020) 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 Davi

--

Jametta A Davi, Ph D
Records Management Oversight and Reporting Division (ACO2)
National Archives and Records Administration

 2021-03-01_UD-2021-0020_DOD DHA_Open Letter_1301-1b.pdf
84K

**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,



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 UDs 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 wa provided with the allegation portion only minu the name of the individual and upporting 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,

(b) (5)

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

(b) (7)(E)

Join by phone

(US) (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](mailto: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](#).

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](https://www.archives.gov/locations/college-park)
[College Park, MD 20740 6001](https://www.archives.gov/locations/college-park)
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

Wording for DHA letters

Evangela Wimbush-Jeffrey <evangela.wimbush-jeffrey@nara.gov>
To: Jametta Davis <jametta.davis@nara.gov>

Tue, Mar 23, 2021 at 3:01 PM

Good afternoon,

Yes, this will work. 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.wimbushjeffrey@nara.gov

On Tue, Mar 23, 2021 at 2:17 PM Jametta Davis <jametta.davis@nara.gov> wrote:

Hi Evangela,

Could you confirm whether this wording is sufficient for NARA's email response to Luz Ortiz?

(b) (6)

Thanks,
Jametta

Jametta A. Davis, Ph.D.
Records Management Oversight and Reporting Division (ACO2)
National Archives and Records Administration

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 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!

(b) (5)

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.wimbushjeffrey@nara.gov> wrote
Good morning,

(b) (5)

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 Record 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](#)



Unauthorized Dispositions: UD-2021-0018, 19, 20. Litigation??

(b) (6) 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)
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 # 7012164000096654524 was picked up on February 12, 2012 by (b) (6). The Certify with label # 7012164000096651035 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:

NARA-NGC21-710-00831

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.

-

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.

NARA-NGC21-710-00834

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

NARA-NGC21-710-00835

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 per on 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 de troyed or are at ri k 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 preserver 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	<p>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:</p> <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 	<p>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.</p>	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

FOIA for UD-2021-0020

Evangela Wimbush-Jeffrey <evangela.wimbush-jeffrey@nara.gov>
To: Jametta Davis <jametta.davis@nara.gov>

Tue, Jun 15, 2021 at 3:18 PM

Good afternoon,

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, Jun 15, 2021 at 3:07 PM Jametta Davis <jametta.davis@nara.gov> wrote:

Great, that work ! My schedule shifted a bit so we continued class into the afternoon to avoid meeting again tonight I'll work on this and email you once I'm done.

On Tue, Jun 15, 2021 at 10:45 AM Evangela Wimbush-Jeffrey <evangela.wimbush-jeffrey@nara.gov> wrote:

Good morning,

2020 is due by close of business tomorrow. I can ask for an extension if we need to but I think that we can complete this task by tomorrow. 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, Jun 15, 2021 at 10:25 AM Jametta Davis <jametta.davis@nara.gov> wrote:

Hi Evangela

The one in 0020 require change to the file name and the folder may require some additional email added not complete. I received the request for 0018 and 0019 but not 0020. I'll finish it after 12 today. When is 0020 due?

Thanks,
Jametta

On Tue, Jun 15, 2021 at 8:35 AM Evangela Wimbush-Jeffrey <evangela.wimbush-jeffrey@nara.gov> wrote:

Good morning,

We received a FOIA for UD-2021-0020 too. I see that we have a number of case files in the folder. Can you confirm that all communications relative to this UD case are in the cases file? We have a short turn-around on this 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

FOIA for UD-2021-0020

Evangela Wimbush-Jeffrey <evangela.wimbush-jeffrey@nara.gov>
To: Jametta Davis <jametta.davis@nara.gov>

Tue, Jun 15, 2021 at 8:35 AM

Good morning,

We received a FOIA for UD-2021-0020 too. I see that we have a number of case files in the folder. Can you confirm that all communications relative to this UD case are in the cases file? We have a short turn-around on this one. 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



Office of the Chief
Records Officer for the
U.S. Government

Sent Via Email. No Hard Copy to Follow.

January 26, 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 been notified of a recent court decision for the case, *Hammond v. Department of Defense, Et Al.*, No. 1:16-cv-00421, in the United States District Court for the District of Columbia. This case addresses FOIA requests that were also the subject of an allegation of an unauthorized disposition of records at the Defense Health Agency's (DHA) Walter Reed National Military Medical Center (WRNMMC) (UD-2021-0020). A member of the public alleged that in response to a FOIA request on or about April 1, 2014, WRNMMC altered and unlawfully destroyed FY 2013 FOIA processing logs and related communication records.

DHA determined that the applicable FOIA responsive records were provided to the requester and an unauthorized disposition did not occur. The court also found that WRNMMC provided the requested records and conducted "reasonable and adequate" searches in response to the requester's multiple FOIA requests. Based on this information, 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,

LAURENCE BREWER
Chief Records Officer
for the U S Government

NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0020)

Ortiz, Luz D CIV WHS ESD (USA) luz.d.ortiz.civ@mail.mil

Fri, Mar 12, 2021 at 5:38 PM

To: Jametta Davis <jametta.davis@nara.gov>

Cc: "Hawkins, Margaret" <margaret.hawkins@nara.gov>, "Welch, Sebastian" <sebastian.welch@nara.gov>

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)

Paul.t.cygnarowicz.civ@mail.mil

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>

[Quoted text hidden]

NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0020)

Ortiz, Luz D CIV WHS ESD (USA) luz.d.ortiz.civ@mail.mil Fri, Mar 26, 2021 at 2:40 PM
To: Jametta Davis <jametta.davis@nara.gov>, "Welch, Sebastian" <sebastian.welch@nara.gov>, "Hawkins, Margaret" <margaret.hawkins@nara.gov>

Good afternoon,

DHA Records Manager has stated the records have not been destroyed, they have the case files for their litigation. These allegations should be closed

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: Friday, March 26, 2021 2:35 PM

To: Ortiz, Luz D CIV WHS ESD (USA) <luz.d.ortiz.civ@mail.mil>; Welch, Sebastian <sebastian.welch@nara.gov>; Hawkins, Margaret <margaret.hawkins@nara.gov>

Subject: [Non-DoD Source] Re: NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0020)

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Dear Ms. Ortiz,

Thank you for your response. Due to the ongoing litigation relating to this case, NARA has determined that UD-2021-0020 will remain open until the litigation is closed. If you have any question or concern, please feel free to contact Laurence Brewer at laurence.brewer@nara.gov < Caution-mailto:laurence.brewer@nara.gov > .

Thanks,

Jametta

[Quoted text hidden]

NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0020)

Ortiz, Luz D CIV WHS ESD (USA) luz.d.ortiz.civ@mail.mil

Mon, Mar 29, 2021 at 11:54 AM

To: Jametta Davis <jametta.davis@nara.gov>

Cc: "Welch, Sebastian" <sebastian.welch@nara.gov>, "Hawkins, Margaret" <margaret.hawkins@nara.gov>

Thank you for additional review (b) (5)

if this is NARA's decision after additional review.

Regards,

Luz

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.milComments: <https://ice.disa.mil/index.cfm?fa=card&sp=139870>**From:** Jametta Davis jametta.davis@nara.gov**Sent:** Monday, March 29, 2021 11:40 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:** Re [Non DoD Source] Re NARA Correspondence RE DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0020)

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Good Morning Mrs. Ortiz,

Receipt acknowledged. We will review this matter and notify you once additional information is provided.

Thanks,

Jametta Davis

On Fri, Mar 26, 2021 at 2:40 PM Ortiz, Luz D CIV WHS ESD (USA) <luz.d.ortiz.civ@mail.mil < Caution-mailto:luz.d.ortiz.civ@mail.mil > > wrote:

Good afternoon,

(b) (5)

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 < Caution-mailto:wh mc ale e d mb record and decla ification@mail mil

Comments:Caution-https://ice.disa.mil/index.cfm?fa=card&sp=139870 < Caution-https://ice.disa.mil/index.cfm?fa=card&sp=139870 >

From: Jametta Davis jametta.davi@nara.gov Caution mailto:jametta.davi@nara.gov

Sent: Friday, March 26, 2021 2:35 PM

To: Ortiz, Luz D CIV WHS ESD (USA) luz.d.ortiz.civ@mail.mil Caution mailto:luz.d.ortiz.civ@mail.mil ;

NARA-NGC21-710-00847

Welch, Sebastian <ebastianwelch@nara.gov> Caution mailto: ebastianwelch@nara.gov ; Hawkins, Margaret <margaret.hawkins@nara.gov> < Caution-mailto:margaret.hawkins@nara.gov > >
Subject: [Non DoD Source] Re: NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0020)

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Dear Ms. Ortiz,

Thank you for your response. Due to the ongoing litigation relating to this case, NARA has determined that UD-2021-0020 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 < Caution-mailto:laurence.brewer@nara.gov > < Caution-Caution-mailto: laurence.brewer@nara.gov Caution mailto: laurence.brewer@nara.gov

Thank ,

Jametta

[Quoted text hidden]

NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0020)

Jametta Davi jametta davi @nara gov

Mon, Mar 29, 2021 at 11 39 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>

Good Morning Mrs. Ortiz,

Receipt acknowledged. We will review this matter and notify you once additional information is provided.

Thanks,

Jametta Davi

[Quoted text hidden]

NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0020)

Jametta Davi jametta davi @nara gov
To: Evangela Wimbush-Jeffrey <evangela.wimbush-jeffrey@nara.gov>

Mon, Mar 29, 2021 at 7 08 AM

Okay, thank you.

On Mon, Mar 29, 2021 at 7 06 AM Evangela Wimbu h Jeffrey evangela wimbu h jeffrey@nara gov wrote
Good morning,

I will bring this to Laurence's attention. He may also want to discuss this with NGC again. I will let you know how to proceed but in the meantime, you can reply to acknowledge receipt of her message. 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 Mon, Mar 29, 2021 at 6:16 AM Jametta Davis <jametta.davis@nara.gov> wrote:
Good Morning Evangela,

Please advise.

Thanks,
Jametta

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

From: **Ortiz, Luz D CIV WHS ESD (USA)** <luz.d.ortiz.civ@mail.mil>

Date: Fri, Mar 26, 2021, 2 40 PM

Subject: RE: [Non-DoD Source] Re: NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0020)

To: Jametta Davis <jametta.davis@nara.gov>, Welch, Sebastian <sebastian.welch@nara.gov>, Hawkins, Margaret
margaret.hawkin@nara.gov

Good afternoon,

(b) (5)

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 wh.mc.ale@dmb.record.and.declassification@mail.mil

Comments: <https://ice.disa.mil/index.cfm?fa=card&sp=139870>

From: Jametta Davis <jametta.davis@nara.gov>

Sent: Friday, March 26, 2021 2:35 PM

To: Ortiz, Luz D CIV WHS ESD (USA) <luz.d.ortiz.civ@mail.mil>; Welch, Sebastian

sebastian.welch@nara.gov; Hawkins, Margaret margaret.hawkins@nara.gov

Subject: [Non-DoD Source] Re: NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD 2021 0020)

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Dear Ms. Ortiz,

Thank you for your response. Due to the ongoing litigation relating to this case, NARA has determined that UD-2021-0020 will remain open until the litigation is closed. If you have any question or concern, please feel free to contact Laurence Brewer at laurence.brewer@nara.gov <Caution-mailto:laurence.brewer@nara.gov>.

Thanks,

Jametta

On Tue, Mar 2, 2021 at 11:37 AM Jametta Davis <jametta.davis@nara.gov <Caution-mailto:jametta.davis@nara.gov>> wrote:

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 0020). Please email me your response no later than Thursday, April 1, 2021. Also, if you have any questions, please let me know.

NARA-NGC21-710-00851

Thank you,

Jametta Davis

--

Jametta A. Davis, Ph.D.

Records Management Oversight and Reporting Division (ACO2)

National Archives and Records Administration

NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0020)

Ortiz, Luz D CIV WHS ESD (USA) luz.d.ortiz.civ@mail.mil
To: Jametta Davis <jametta.davis@nara.gov>

Tue, Apr 13, 2021 at 10:21 AM

Thank you for accepting our recommendation.

Regards,

Luz

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, April 13, 2021 9:56 AM

To: Ortiz, Luz D CIV WHS ESD (USA) <luz.d.ortiz.civ@mail.mil>

Subject: Re: [Non-DoD Source] Re: NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0020)

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Good Morning Mrs. Ortiz,

We have updated the status to "ongoing litigation" for each of the DHA UD cases on NARA's website. Please let me know if you have any additional questions or concerns.

Thank you,

Jametta

On Mon, Mar 29, 2021 at 11:54 AM Ortiz, Luz D CIV WHS ESD (USA) <luz.d.ortiz.civ@mail.mil < Caution-mailto luz d ortiz civ@mail mil wrote

Thank you for additional review. (b) (5)

if this is NARA's decision after additional review

Regards,

Luz

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 < Caution-mailto:whs.mc-alex.esd.mbx.records-and-declassification@mail.mil >

Comments: [Caution-https://ice.disa.mil/index.cfm?fa=card&sp=139870](https://ice.disa.mil/index.cfm?fa=card&sp=139870) < Caution-https://ice.disa.mil/index.cfm?fa=card&sp=139870 >

From: Jametta Davis <jametta.davis@nara.gov < Caution-mailto:jametta.davis@nara.gov > >

Sent: Monday, March 29, 2021 11:40 AM

To: Ortiz, Luz D CIV WHS ESD (USA) <luz.d.ortiz.civ@mail.mil < Caution-mailto:luz.d.ortiz.civ@mail.mil > >

Cc: Welch, Sebastian <eba.tian.welch@nara.gov < Caution-mailto:eba.tian.welch@nara.gov > >; Hawkins, NARA-NGC21-710-00854

Margaret margaret.hawkin@nara.gov Caution <mailto:margaret.hawkin@nara.gov>

Subject: Re: [Non-DoD Source] Re: NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD 2021 0020)

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all link contained within the message prior to copying and pasting the address to a Web browser

Good Morning Mrs. Ortiz,

Receipt acknowledged. We will review this matter and notify you once additional information is provided.

Thanks,

Jametta Davis

On Fri, Mar 26, 2021 at 2:40 PM Ortiz, Luz D CIV WHS ESD (USA) <luz.d.ortiz.civ@mail.mil> <Caution-Caution-mailto:luz.d.ortiz.civ@mail.mil Caution mailto:luz.d.ortiz.civ@mail.mil%C2%A0%3c%C2%A0Caution Caution mailto:luz.d.ortiz.civ@mail.mil > > wrote:

Good afternoon,

(b) (5)

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 Caution <mailto:whs.mc-alex.esd.mbx.records-and-declassification@mail.mil> > <Caution-Caution-mailto:whs.mc-alex.esd.mbx.records-and-declassification@mail.mil Caution mailto:whs.mc-alex.esd.mbx.records-and-declassification@mail.mil > >

Comments:Caution-Caution-<https://ice.disa.mil/index.cfm?fa=card&sp=139870> <Caution-<https://ice.disa.mil/index.cfm?fa=card&sp=139870> > <Caution-Caution-<https://ice.disa.mil/index.cfm?fa=card&sp=139870> <Caution-<https://ice.disa.mil/index.cfm?fa=card&sp=139870> > >

From: Jametta Davis <jametta.davis@nara.gov < Caution-Caution-mailto:jametta.davis@nara.gov < Caution-mailto:jametta.davis@nara.gov%C2%A0%3c%C2%A0Caution-Caution-mailto:jametta.davis@nara.gov > > >

Sent: Friday, March 26, 2021 2:35 PM

To: Ortiz, Luz D CIV WHS ESD (USA) <luz.d.ortiz.civ@mail.mil < Caution-Caution-mailto:luz.d.ortiz.civ@mail.mil < Caution-mailto:luz.d.ortiz.civ@mail.mil%C2%A0%3c%C2%A0Caution-Caution-mailto:luz.d.ortiz.civ@mail.mil > > >; Welch, Sebastian <sebastian.welch@nara.gov < Caution-Caution-mailto:sebastian.welch@nara.gov < Caution-mailto:sebastian.welch@nara.gov%C2%A0%3c%C2%A0Caution-Caution-mailto:sebastian.welch@nara.gov > > >; Hawkins, Margaret <margaret.hawkins@nara.gov < Caution-Caution-mailto:margaret.hawkins@nara.gov < Caution-mailto:margaret.hawkins@nara.gov%C2%A0%3c%C2%A0Caution-Caution-mailto:margaret.hawkins@nara.gov > > >

Subject: [Non-DoD Source] Re: NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0020)

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Dear Ms. Ortiz,

Thank you for your response. Due to the ongoing litigation relating to this case, NARA has determined that UD-2021-0020 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 < Caution-mailto:laurence.brewer@nara.gov > < Caution-Caution-mailto:laurence.brewer@nara.gov < Caution-mailto:laurence.brewer@nara.gov > > < Caution-Caution-Caution-mailto:laurence.brewer@nara.gov < Caution-mailto:laurence.brewer@nara.gov > < Caution-Caution-mailto:laurence.brewer@nara.gov < Caution-mailto:laurence.brewer@nara.gov > > > .

Thanks,

Jametta

[Quoted text hidden]

NARA Correspondence RE: DoD Defense Health Agency Allegation of Unauthorized Destruction of Records (UD-2021-0020)

Jametta Davi jametta davi @nara gov
To: "Ortiz, Luz D CIV WHS ESD (USA)" <luz.d.ortiz.civ@mail.mil>

Tue, Apr 13, 2021 at 9 55 AM

Good Morning Mrs. Ortiz,

We have updated the statu to "ongoing litigation" for each of the DHA UD ca e on NARA' web ite Plea e let me know if you have any additional questions or concerns.

Thank you,
Jametta
[Quoted text hidden]