

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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AMERICANS FOR PROSPERITY FOUNDATION )  
1310 North Courthouse Road, Suite 700 )  
Arlington, VA 22201, )

Plaintiff, )

v. )

U.S. DEPARTMENT OF VETERANS AFFAIRS )  
810 Vermont Avenue, N.W. )  
Washington, D.C. 20420, )

Defendant. )

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**COMPLAINT EXHIBIT 35**



DEPARTMENT OF VETERANS AFFAIRS  
Louis A. Johnson VA Medical Center  
1 Medical Center Drive  
Clarksburg, WV 26301-4199

In Reply Refer To: 540/001C/FOIA

May 28, 2021

**FOIA Request: 21-06281-F**

Ryan Mulvey  
[rmulvey@afphq.org](mailto:rmulvey@afphq.org)

Dear Mr. Mulvey:

This letter acknowledges receipt of your May 28, 2021 request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, submitted to the Louis A. Johnson VA Medical Center for a copy of:

Records pertaining to the Veteran Community Care Program (VCCP) from January 1, 2020 to present to include:

1. Records reflecting the total number of appointments scheduled.
2. Records reflecting the total number of appointments completed.
3. Records reflecting the total number of appointments cancelled:
  - a. By a VA health care provider; and
  - b. By a patient.
4. Records reflecting the total number and percentage of appointments for primary care, mental health care, or non-institutional extended care services scheduled:
  - a. Within 20 days of a patient's date of request; and
  - b. Over 20 days of a patient's date of request.
5. Records reflecting the total number and percentage of appointments for specialty care scheduled:
  - a. Within 28 days of a patient's date of request; and
  - b. Over 28 days of a patient's date of request.
6. Records reflecting the total number of patients who, in consultation with a VA health care provider, agreed to schedule an appointment outside the 20-/28-day period established by the VCCP designated access standards.
7. Records reflecting the total number of patients who refused to schedule an appointment outside the 20-/28-day period established by the VCCP designated access standards.
8. All records reflecting the policies and practices for documenting whether a patient agrees or refuses to schedule an appointment outside the 20-/28-day period established by the VCCP designated access standards. This item would include, for example, any blank, standardized form(s) for memorializing such patient consent.
9. Records reflecting the total number and percentage of patients:

- a. Eligible for community care under the VCCP;
  - b. Who have elected to receive community care under the VCCP; and
  - c. Who have declined to receive community care under the VCCP.
10. All guidance documents, legal opinions, administrative orders, directives, policy statements, or communications exchanged between the Louis A. Johnson VA Medical Center and the Veterans Health Administration, VA Office of General Counsel, VA Office of the Secretary, White House Office of Management and Budget, or White House Domestic Policy Council concerning:
- a. Interpretation of the VCCP regulations and designated access standards, including the agency's method for calculating wait times (e.g., discussion of the difference between "date of request," "patient preferred date," and "clinically indicated date");
  - b. The process by which the VA obtains patient consent to schedule an appointment outside the 20-/28-period established by the VCCP designated access standards;
  - c. Limiting or dissuading veterans from using community care; and
  - d. The impact of the COVID-19 pandemic on administration of the VCCP.

Your FOIA request was received in my office on May 28, 2021. Your FOIA request was assigned the tracking number listed at the top of this letter. Please include this tracking number in all future communications concerning this FOIA request. As expressly authorized under the FOIA, VA processes requests using multi-track processing which allows us to process requests on a first-in, first-out basis in either a simple or complex processing track. This allows us to respond to relatively simple requests more quickly than requests involving complex and/or voluminous records.

I have placed your request in complex processing category. The complex processing track is the slower of the two tracks. If you wish to discuss modifying the scope of your request in order to qualify for the faster processing track, please feel free to contact me. My contact information is listed below.

Please be advised that your request for Fee Waiver has been granted, therefore, no fees will be assessed for the processing of this request.

VHA exists to provide health care to our nations Veterans. Our mission is to: "Honor America's Veterans by providing exceptional health care that improves their health and well-being." To accomplish this, VHA is the largest integrated health care system in the United States, providing care at 1,255 health care facilities, including 170 VA Medical Centers and 1,074 outpatient sites of care of varying complexity (VHA outpatient clinics) to over 9 million Veterans enrolled in the VA health care program. Today, the VHA is leading the fight against the Novel Coronavirus (COVID 19) at these centers and at research sites nationwide.

While we will work to process your request in accordance with 5 U.S.C. 552, delivery delays can be expected due to the VHA's mission related to the global pandemic of COVID-19. During this time, we will work with you to scope your request so that we can get you exactly what you need as quickly as possible. You can also track updates related to COVID 19 and the VHA at: <https://www.publichealth.va.gov/n-coronavirus/index.asp>.

We will search for records responsive to your FOIA request that were gathered or created by the Louis A. Johnson VA Medical Center on or before the date your request is sent out for record search.

If you have any questions about your request, you may contact me by telephone at 304-623-3461 extension 3292. We ask for your patience as we sail through uncharted waters and look forward to working with you on your request.

Sincerely,

*Tonya Facemire*

Tonya Facemire  
FOIA Officer