

EXHIBIT 5

From: MHixenbaugh PilotOnline
Sent: Wednesday, February 17, 2016 11:19 AM
To: ogis@nara.gov
Cc: Charles Ornstein
Subject: Fwd: [EXTERNAL] Re: FOIA follow up

Dear Sir or Madam,

I'm writing to request assistance with the following matter: I'm a reporter for The Virginian-Pilot newspaper working on a story in partnership with ProPublica (Charles Ornstein copied). In May 2015, I requested the following from the Department of Veterans Affairs:

"- All correspondence (including emails and letters) as well as any memos and reports between Jan. 1, 2009 and the date this request is completed to and from Han K. Kang, former director of VA's War Related Illness and Injury Studies Center, regarding Agent Orange and dioxin, and its effects on veterans and/or their offspring.

- All correspondence (including emails and letters) as well as any memos and reports between Jan. 1, 2009 and the date this request is completed to and from Michael Peterson, former Chief Consultant, Post-Deployment Health, Public Health, regarding Agent Orange and dioxin and its effects on veterans and/or their offspring."

For the past nine months, the VA FOIA office has told me that IT is looking into the request. But as you can see in this thread, IT is apparently not responsive to questions about when the request might be completed.

The FOIA tracking number is **15-05014-F**. It's one of several unfulfilled requests ProPublica has with the VA. Can you offer any assistance or tips for moving this along?

Thank your for your help.

-Mike

Mike Hixenbaugh
Staff Writer
The Virginian-Pilot
Office: [757-446-2949](tel:757-446-2949)
Cell: [330-990-9253](tel:330-990-9253)
MikeHixenbaugh.com

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

From: **Swailles, Barbara K.** <Barbara.Swailes@va.gov>
Date: Wed, Feb 17, 2016 at 8:11 AM
Subject: RE: [EXTERNAL] Re: FOIA follow up
To: Mike Hixenbaugh <mike.hixenbaugh@pilotonline.com>
Cc: Charles Ornstein <Charles.Ornstein@propublica.org>, VHA FOIA <vhafoia2@va.gov>

Mike,

IT has not yet provided me with an estimated delivery date. I did ask again yesterday.

Sincerely,

Barbara Swailles, MHA, CIPP/US, CIPP/G

Acting Director, VHA FOIA Office (10P2C1) | Information Access and Privacy Office

Health Information Governance | Office of Informatics and Analytics

810 Vermont Avenue, N.W. | Washington, D.C. 20420

Tel. [\(319\) 383-2609](tel:319-383-2609) | Fax [\(202\) 273-9387](tel:202-273-9387)

From: Mike Hixenbaugh [mailto:mike.hixenbaugh@pilotonline.com]

Sent: Monday, February 15, 2016 9:03 AM

To: Swailles, Barbara K.

Cc: Charles Ornstein; VHA FOIA; VAVBAWAS/CO/FOIA; VACO 001B FOIA Inbox; Mack-Abney, Regina; Balsley, Pamela C.; Abboud, Jon

Subject: [EXTERNAL] Re: FOIA follow up

Barbara,

Following up again, specifically on this request:

"- All correspondence (including emails and letters) as well as any memos and reports between Jan. 1, 2009 and the date this request is completed to and from Han K. Kang, former director of VA's War Related Illness and Injury Studies Center, regarding Agent Orange and dioxin, and its effects on veterans and/or their offspring.

- All correspondence (including emails and letters) as well as any memos and reports between Jan. 1, 2009 and the date this request is completed to and from Michael Peterson, former Chief Consultant, Post-Deployment Health, Public Health, regarding Agent Orange and dioxin and its effects on veterans and/or their offspring.

In your Feb. 5 email, you indicated the status is as follows:

- **15-05014-F** - assigned to me. I am waiting for our Information Technology (IT) to complete the record search. The search request was submitted to IT on May 28, 2015. I have followed-up with IT. I have requested an estimated completion date from them.

Have you been able to obtain an estimated completion date? This particular request is a top priority for us. I will discuss with OGIS if we're not able to make progress on this.

Thank you.

-Mike

Mike Hixenbaugh
Staff Writer
The Virginian-Pilot
Office: [757-446-2949](tel:757-446-2949)

Cell: [330-990-9253](tel:330-990-9253)
MikeHixenbaugh.com

On Fri, Feb 5, 2016 at 11:56 AM, Swailes, Barbara K. <Barbara.Swailes@va.gov> wrote:

Mr. Ornstein and Mr. Hixenbaugh,

I apologize for my delay in responding to your email. After reviewing our electronic FOIA tracking system, below are my findings:

- 15-05014-F - assigned to me. I am waiting for our Information Technology (IT) to complete the record search. The search request was submitted to IT on May 28, 2015. I have followed-up with IT. I have requested an estimated completion date from them.
- 15-07637-F – assigned to Lisa Matuszczak, Office of the Executive Secretary. This request was closed on September 24, 2015.
- 15-07638-F - assigned to Deana Marakowski, VHA FOIA Office, - open.
- 15-07639-F – assigned to Gwendolyn Smith, Veterans Benefits Administration, - open.
- 15-07640-F – assigned to Regina Mack-Abney, Office of Congressional and Legislative Affairs – open.
- 15-07641-F – assigned to Jon Abboud, Office of Policy and Planning – open.

Unfortunately, our electronic FOIA tracking system does not indicate where the assigned FOIA Officer is in their review process. Contact information for VA Central Office FOIA Officers is available on VA's website, http://www.oprm.va.gov/foia/FOIA_offices_vaco.aspx. I have also included the assigned FOIA Officers on the email they may respond directly to any inquiry pertaining to their assigned request.

If you have any further questions, please feel free to contact me.

Thank you,

Barbara Swailes, MHA, CIPP/US, CIPP/G

Acting Director, VHA FOIA Office (10P2C1) | Information Access and Privacy Office

Health Information Governance | Office of Informatics and Analytics

810 Vermont Avenue, N.W. | Washington, D.C. 20420

Tel. [\(319\) 383-2609](tel:3193832609) | Fax [\(202\) 273-9387](tel:2022739387)

From: Charles Ornstein [mailto:Charles.Ornstein@propublica.org]
Sent: Thursday, February 04, 2016 3:50 PM
To: MHixenbaugh PilotOnline; Swalles, Barbara K.
Subject: [EXTERNAL] RE: FOIA follow up

Hi Barbara, I wanted to follow up again on our FOIA. Thanks,

Charlie Ornstein

Charles Ornstein
Senior Reporter, ProPublica

155 Avenue of the Americas

13th Floor

New York, NY 10013

E-mail: charles.ornstein@propublica.org

Office: [\(917\) 512-0222](tel:9175120222)
Fax: [\(212\) 785-2634](tel:2127852634)
Cell: [\(818\) 679-9363](tel:8186799363)

Twitter: @charlesornstein

My articles: http://www.propublica.org/site/author/charles_ornstein

From: Graham, Timothy [mailto:Timothy.Graham@va.gov]
Sent: Tuesday, February 02, 2016 4:28 PM
To: Charles Ornstein; MHixenbaugh PilotOnline; Swalles, Barbara K.
Subject: RE: FOIA follow up

Hi Charles – I hope you are doing well.

I am actually not in the VHA FOIA Office right now, I have been out since November. I am including Barbara Swalles who is the Acting Director, VHA FOIA Office on this message to provide you some feedback.

Thank you,

Timothy H. Graham | Acting Associate Director

VA Central California Health Care System | p. [\(559\) 225-6100](tel:(559)225-6100), x. [5337](tel:5337)

From: Charles Ornstein [<mailto:Charles.Ornstein@propublica.org>]
Sent: Tuesday, February 02, 2016 1:25 PM
To: MHixenbaugh PilotOnline; Graham, Timothy
Subject: [EXTERNAL] RE: FOIA follow up

Hi Timothy, Because Mike is out for the next bit, I wanted to follow up with you on his note below.

Thanks.

Charlie Ornstein

Charles Ornstein
Senior Reporter, ProPublica

155 Avenue of the Americas

13th Floor

New York, NY 10013

E-mail: charles.ornstein@propublica.org
Office: [\(917\) 512-0222](tel:(917)512-0222)
Fax: [\(212\) 785-2634](tel:(212)785-2634)
Cell: [\(818\) 679-9363](tel:(818)679-9363)

Twitter: @charlesornstein

My articles: http://www.propublica.org/site/author/charles_ornstein

From: MHixenbaugh PilotOnline
Sent: Saturday, January 30, 2016 11:31 AM
To: timothy.graham@VA.gov
Cc: Charles Ornstein
Subject: Fwd: FOIA follow up

Timothy,

I haven't had any luck getting a status update on the FOIA referenced below. I've emailed several times (as instructed in the initial FOIA response from last spring) and have called FOIA staffers in the office. Can you help with a status update and please let me know what can be done to expedite this request?

The request No: **15-05014-F**

I've also yet to receive information from these requests submitted in September: **15-07637-F, 15-07638-F, 15-07639-F, 15-07640-F, 15-07641-F**

A status update and any help moving those requests along would be appreciated. I'm working with Charles Ornstein of ProPublica. Please copy him on your response.

Thank you,

-Mike

Mike Hixenbaugh
Staff Writer
The Virginian-Pilot
Office: [757-446-2949](tel:757-446-2949)
Cell: [330-990-9253](tel:330-990-9253)
MikeHixenbaugh.com

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

From: **Mike Hixenbaugh** <mike.hixenbaugh@pilotonline.com>
Date: Fri, Jan 22, 2016 at 2:20 PM
Subject: Re: FOIA follow up
To: vha2@va.gov
Cc: Charles Ornstein <Charles.Ornstein@propublica.org>

Please respond promptly with an update on the status of this request and an estimate for when it will be completed:

Request No. **15-05014-F**. I submitted the request on May 12, 2015. Specifically, I had requested the following:

"- All correspondence (including emails and letters) as well as any memos and reports between Jan. 1, 2009 and the date this request is completed to and from Han K. Kang, former director of VA's War Related Illness and Injury Studies Center, regarding Agent Orange and dioxin, and its effects on veterans and/or their offspring.

- All correspondence (including emails and letters) as well as any memos and reports between Jan. 1, 2009 and the date this request is completed to and from Michael Peterson, former Chief Consultant, Post-Deployment Health, Public Health, regarding Agent Orange and dioxin and its effects on veterans and/or their offspring.

Mike Hixenbaugh
Staff Writer

The Virginian-Pilot
Office: [757-446-2949](tel:757-446-2949)
Cell: [330-990-9253](tel:330-990-9253)
MikeHixenbaugh.com

On Mon, Jan 11, 2016 at 3:32 PM, Mike Hixenbaugh <mike.hixenbaugh@pilotonline.com> wrote:

Please advise on the status of my FOIA Request No. **15-05014-F**. I submitted the request eight months ago on May 12, 2015. Specifically, I had requested the following:

"- All correspondence (including emails and letters) as well as any memos and reports between Jan. 1, 2009 and the date this request is completed to and from Han K. Kang, former director of VA's War Related Illness and Injury Studies Center, regarding Agent Orange and dioxin, and its effects on veterans and/or their offspring.

- All correspondence (including emails and letters) as well as any memos and reports between Jan. 1, 2009 and the date this request is completed to and from Michael Peterson, former Chief Consultant, Post-Deployment Health, Public Health, regarding Agent Orange and dioxin and its effects on veterans and/or their offspring.

(I'm a journalist with The Virginian-Pilot newspaper. My reporting partner, Charles Ornstein of ProPublica, is copied on this message.)

Thank you.

-Mike

Mike Hixenbaugh
Staff Writer
The Virginian-Pilot
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Cell: [330-990-9253](tel:330-990-9253)
MikeHixenbaugh.com