

EXHIBIT 1



Office of the General Counsel
Washington DC 20420

In Reply Refer To: ILG/024F
OGC Case #: 93614
FOIA # 17-07822-FP

September 11, 2017

Mr. John Williams
51 Elm Street, Suite 409
New Haven, CT 06510

RE: John Pinnicchia

Dear Mr. Williams:

This letter is the final administrative decision issued under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, in response to your July 29, 2017 appeal of the initial agency decision issued by the Department of Veterans Affairs Medical Center (VAMC) in West Haven, CT.

Your appeal is denied for the reasons outlined below.

Procedural History
Initial Request

- On June 2, 2017, you requested the following:

"A police report for incident containing an alleged threat that happened on May 26, 2017."

Initial Agency Decision (IAD)

- On June 14, 2017, under FOIA Tracking Number 17-07822-FP, the VAMC provided you a redacted copy of the Uniform Offense Report (UOR) # 689 IR20170526-000397 in response to your request. A five (5) page responsive report was found and withheld in part under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (b)(6) and (b)(7)(C).

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Mr. John Williams

Appeal

- On July 29, 2017, you appealed that decision to our office, stating:

“The entire police complaint, except for the name and identifying information of Mr. Pinnicchia himself, has been redacted. [...]”.

Responsive Records

A five (5) page report, UOR# 689 IR20170526-000397.

Relevant Law

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

Exemption (b)(6) protects records when the release would lead to a clearly unwarranted invasion of personal privacy. 5 U.S.C. § 552(b)(6).

Similarly, the information requested is also protected under FOIA Exemption (b)(7)(C). Exemption (b)(7)(C) protects material compiled for law enforcement when the production of such records could reasonably be expected to constitute an unwarranted invasion of personal privacy. 5 U.S.C. § 552(b)(7)(C). In United States Department of Justice v. Reporters Committee for Freedom of the Press, 489 U.S. 749 (1989), the Supreme Court provided the following step-by-step analysis to determine whether the release of records would lead to a clearly unwarranted invasion of personal privacy: (1) determine whether a personal privacy interest is involved; (2) determine whether disclosure would serve the public interest; and (3) balance the personal privacy interest against the public interest.

We have also considered your request under the Privacy Act, 5 U.S.C. § 552a. Please note that you are not entitled to a copy of the UOR under the Privacy Act. UORs fall within VA system of records 103VA07B, and are exempted from the access provisions of the Privacy Act in accordance with 5 U.S.C. § 552a(j) and (k) and 38 C.F.R. § 1.582.

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Mr. John Williams

Analysis

Subsequent to your appeal, on August 4, 2017, we contacted VAMC FOIA Officer regarding their search and requested the responsive records for further review. The FOIA Officer provided us the administrative records responsive to your request.

The information redacted from the UOR consists of names and identifying details regarding the specific individuals; these individuals have a significant privacy interest in information about themselves. This is particularly true under the circumstances present here, where the record at issue involves a potentially contentious situation. In addition, there is no indication that release of the identities or identifying details of those involved would serve an articulable and significant public interest. Any potential general public interest in the agency's conduct of its business is satisfied by our disclosure that VA police completed their report, and provided you most of the UOR.

Conclusion

In view of the foregoing, we uphold the FOIA/ PA Officer's determination to withhold the names and identifying details in the UOR under the FOIA Exemptions (b)(6) and (b)(7)(c).

Mediation/Appeal Rights

This final agency decision concludes the administrative processing of your requests referred to above. As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services. Similarly, as part of the FOIA Improvement Act of 2016, VA established a FOIA Public Liaison to offer mediation services. Both OGIS and the VA Public Liaison will assist in resolving disputes between FOIA requesters and VA as a non-exclusive alternative to litigation. Using OGIS or the VA FOIA Public Liaison does not affect your right to pursue litigation. You may contact OGIS or the VA Public Liaison in any of the following ways:

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

E-mail: ogis@nara.gov
Telephone: 202-741-5770
Facsimile: 202-741-5769
Toll-free: 1-877-684-6448

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Mr. John Williams

VA FOIA Public Liaison
John Buck
Director, VA Privacy & Records Mngt.
810 Vermont Avenue, NW (005R1C)
Washington, DC 20420

E-mail: vafoiaservice@va.gov
Telephone: 1-877-750-3642
Facsimile: 202-632-7581

With respect to any information denied to you by this final agency decision, the FOIA requires us to advise you that if you believe the Department erred in this decision, you have the right to file a complaint in an appropriate United States District Court.

Sincerely,



Kenyatta McLeod-Poole
Acting Chief Counsel, Information Law Group

cc: Quinn Martin, FOIA Officer – West Haven VAMC, CT
Stephania Griffin – Acting VHA FOIA Director (10P2C1)
John Buck – FOIA Public Liaison (005R1C)