

From: OGC FOIA Requests
To: "foiareporter@gmail.com"
Date: Sun May 17 2020 13:52:58 GMT-0400 (Eastern Daylight Time)
Subject: FW: [EXTERNAL] Acknowledgement - FOIA Request

Mr. Phillips,

Unfortunately, my email to you returned back to me from our database as being "undeliverable." I'm sending it again.

From: Baxter, M. Renee <OGCFOIARequests@va.gov>
Sent: Friday, May 15, 2020 9:49 PM
To: foiareporter@gmail.com
Cc: OGC FOIA Requests <OGCFOIARequests@va.gov>
Subject: [EXTERNAL] Acknowledgement - FOIA Request

Mr. Phillips,

Attached is the acknowledgement of your FOIA request dated April 27, 2020.

Attachments:

- [05/17/20-Msg#1-Attach:OGC Complex-News Media.pdf](#)



U.S. Department of Veterans Affairs
Office of General Counsel
Information and Administrative Law Group

810 Vermont Avenue, NW
Washington, DC 20420
www.va.gov/ogc

20-06435-F

May 15, 2020

Sent via email address: foiareporter@gmail.com

Mr. Joshua Phillips
Journalist/Producer
510 E. 84th Street, #4C
New York, NY 10028

Dear Mr. Phillips:

This is in reference to your Freedom of Information Act/Privacy Act request, dated April 27, 2020, which was received in the VA OGC FOIA Requests mailbox on April 27, 2020. Your email regarding the subject matter below was interpreted as a FOIA request and transferred to the OGC FOIA Officer who is designated to respond to such requests on behalf of the General Counsel.

1. Any and all correspondence records — electronic or otherwise, including but not limited to emails and recorded telephone messages — to, from, and carbon copied (or “cc”) to the Veterans Administration’s Office of General Counsel (OGS) staff senior leadership and political appointees, on, about, mentioning or referring to Coronavirus or COVID-19 (or novel coronavirus disease-2019 or SARS-CoV-2) negligent death complaints, lawsuits and litigation from January 1, 2020 to the date this request is processed.

Your request was assigned to OGC FOIA Tracking Number 20-06435-F. Please refer to this number in any future correspondence to this office.

Due to the current COVID-19 pandemic situation, and pursuant to guidance received from the Office of Management and Budget, the U.S. Department of Veterans Affairs, Freedom of Information Act Offices have implemented maximum telework flexibilities to protect its employees and their communities.

During this time, personnel will not have access to requests mailed to FOIA offices in hard copy format via the U.S. Mail or fax machine. There will be a delay in responses to such correspondence as well as the processing of requests and appeals. To confirm receipt of a previously submitted FOIA request, or for status inquiries, please contact us via telephone at (202) 322-3652 or via email to OGC.

We apologize for the inconvenience and appreciate your understanding and patience.

-2-

As information, the U.S. Department of Veterans Affairs (VA) has a decentralized process for responding to FOIA requests which means that each VA component, i.e., OGC, VHA, VBA, etc., has a separate designated FOIA Officers responsible for responding to requests by the component office. All FOIA requests for Office of General Counsel records are processed by the FOIA Officer in Washington, D.C.

The Freedom of Information Act, 5 U.S.C. § 552(A)(a)(ii), places all FOIA requesters in one of three categories for fee purposes. The three categories of FOIA requesters are commercial use; educational institutions, noncommercial scientific institutions, representatives of the news media; and all other requesters.

We have classified you as a representative of the news media. As such, we may charge you for some of our duplication costs, but we will not charge you for our search or review costs; you also are entitled to up to 100 pages of photocopies (or an equivalent volume) for free. See 38

C.F.R. § 1.561(b)(7). If, after taking into consideration your fee category entitlements, our processing costs are less than \$50.00, we will not bill you because the cost of collection would be greater than the fee collected. See 38 *C.F.R. § 1.561(b)(7)*.

For your information, this office assigns incoming requests to one of three tracks: simple, complex, or expedited. **Each FOIA request is then handled on a first-in, first-out (FIFO) basis in relation to other requests in the same track.** At this time, your request has been assigned to the Complex track. 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 the FOIA Officer assigned to this request. The OGC FOIA Officers' contact information is listed below.

We will search for records responsive to your FOIA request that were gathered or created by the Office of General Counsel on and before the date your request is sent out for record search. Simple requests usually receive a response in about two to three months, whereas complex requests take considerably longer.

We regret the necessity of this delay, but assure you that your request will be processed as soon as possible. If you have any questions about this letter, please contact M. Renee Baxter at email address OGCFOIArequests@va.gov or you may contact the OGC FOIA Requester Service at (202) 461-7860 between the work hours of 8:00 a.m. – 5:00 p.m. (Eastern Standard Time).

We have not yet made a decision on your request for a fee waiver. We will do so after we determine whether fees will be assessed for this request. As a "representative of the news media," you will not be charged search fees.

The FOIA provides for requests of fee waiver when the disclosure of the information is in the public interest and not primarily in the commercial interest of the requester. The four defining public interests are:

Public Interest:

1. The subject concerns the operations or activities of the U.S. Government.
2. The disclosure is informative (i.e., "likely to contribute").
3. The disclosure helps the public understand the operations and activities of the U.S. Government.
4. The disclosure contributes significantly into public understanding.

Whenever a FOIA request is expedited for a particular requester, it results in an additional delay for previous requesters who have been waiting for a response. Therefore, in an effort to treat all requesters fairly, the Office of General Counsel ordinarily will process a FOIA request ahead of others only in cases when the requester demonstrates a compelling need. Compelling need exists if either of the following applies: 1) failure of the requester to obtain the records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual, or 2) in the case of a request made by a person primarily engaged in disseminating information, there is an urgency to inform the public concerning actual or alleged federal government activity.

In order to be granted expedited processing of a FOIA request, you must provide information in sufficient detail to demonstrate compelling need for the records and certify this statement to be true and correct to the best of your knowledge and belief. Upon receipt of this information, we will give further consideration to your request for expedited processing.

Sincerely,

M. Renee Baxter

M. Renée Baxter
OGC FOIA Officer

From: OGC FOIA Requests
To: Joshua Phillips
Date: Thu Jul 02 2020 09:04:05 GMT-0400 (Eastern Daylight Time)
Subject: RE: [EXTERNAL] Acknowledgement - FOIA Request

Mr. Phillips,

Your FOIA request 20-06435-F is still pending the results of records searches.

OGC FOIA, Privacy and Records Officer
Office of General Counsel
810 Vermont Avenue, NW, Suite 1175P
Washington, DC 20420-0001
Telework: 202-413-1703
FOIA Email Address: OGCFOIARequests@va.gov

From: Joshua Phillips <foiareporter@gmail.com>
Sent: Monday, June 29, 2020 12:06 AM
To: OGC FOIA Requests <OGCFOIARequests@va.gov>
Subject: Re: [EXTERNAL] Acknowledgement - FOIA Request

To Whom it May Concern:

I'm writing in reference to the tracking number **20-06435-F** for my FOIA requests, and am seeking an estimated completion date for my request.

Thank you.

Regards,

Josh Phillips

-- -- -- -- --
Joshua Phillips

Journalist / Producer

+1.646.452.9969 - office

+1.917.842.0755 - mobile
foiareporter@gmail.com
-- -- -- -- --

On May 17, 2020, at 1:52 PM, OGC FOIA Requests <OGCFOIARequests@va.gov> wrote:

Mr. Phillips,

Unfortunately, my email to you returned back to me from our database as being

Exhibit 12

“undeliverable.” I’m sending it again.

From: Baxter, M. Renee <OGCFOIARequests@va.gov>

Sent: Friday, May 15, 2020 9:49 PM

To: foiareporter@gmail.com

Cc: OGC FOIA Requests <OGCFOIARequests@va.gov>

Subject: [EXTERNAL] Acknowledgement - FOIA Request

Mr. Phillips,

Attached is the acknowledgement of your FOIA request dated April 27, 2020.

<OGC Complex-News Media.pdf>
