

ATTACHMENT A

ALAN F. NECKRITZ
ATTORNEY AT LAW
2099 MT. DIABLO BOULEVARD
SUITE 201
WALNUT CREEK, CALIFORNIA 94598
TELEPHONE (510) 933-8962
TELECOPIER (510) 956-7110

June 18, 1999

Freedom of Information Act. Officer
c/o Peace Corps – Joy Hazel
1111 20th Street N.W.
Washington, D.C.

Re: Freedom of Information Act. Request – Dr. Michael G. Horowitz –
Administrative Separation Report (Kingdom of Tonga)

Dear Ms. Hendry:

I represent Dr. Michael G. Horowitz, until recently a Peace Corps volunteer with your Tongan post, now continuing to reside and work in the Kingdom of Tonga.

I would like to lodge a Freedom-of-Information request for the following document: the partially-completed or completed Administrative Separation Report regarding Dr. Horowitz, apparently written by the Country Director of your Tongan post, Mr. Arturo Giron, sometime between the 10th and 18th of March 1999. I am told it's likely the report continues to be stored in the Country Director's safe, which sits against the north wall of his office. The address of the Tongan post is Hala Tupoulahi in the Fasi moe 'Afi district of the Tongan capital of Nuku'alofa.

Enclosed is a copy of Dr. Horowitz's request that you release this information to me as his attorney.

Thank you for your prompt reply.

Very truly yours,


Alan F. Neckritz

bl

FAX TONGA

TO: Alan F. Neckritz, atty.
FAX: {001} (925) 256-7110

FM: M.G. Horowitz
e-mail: <maikolo@tongatapu.net.tu>

June 22, 1999

FOIA Officer
c/o Ms. Joy Hazel
U.S. Peace Corps
1111 20th St. NW
Washington, DC 20526

To the FOIA Officer:

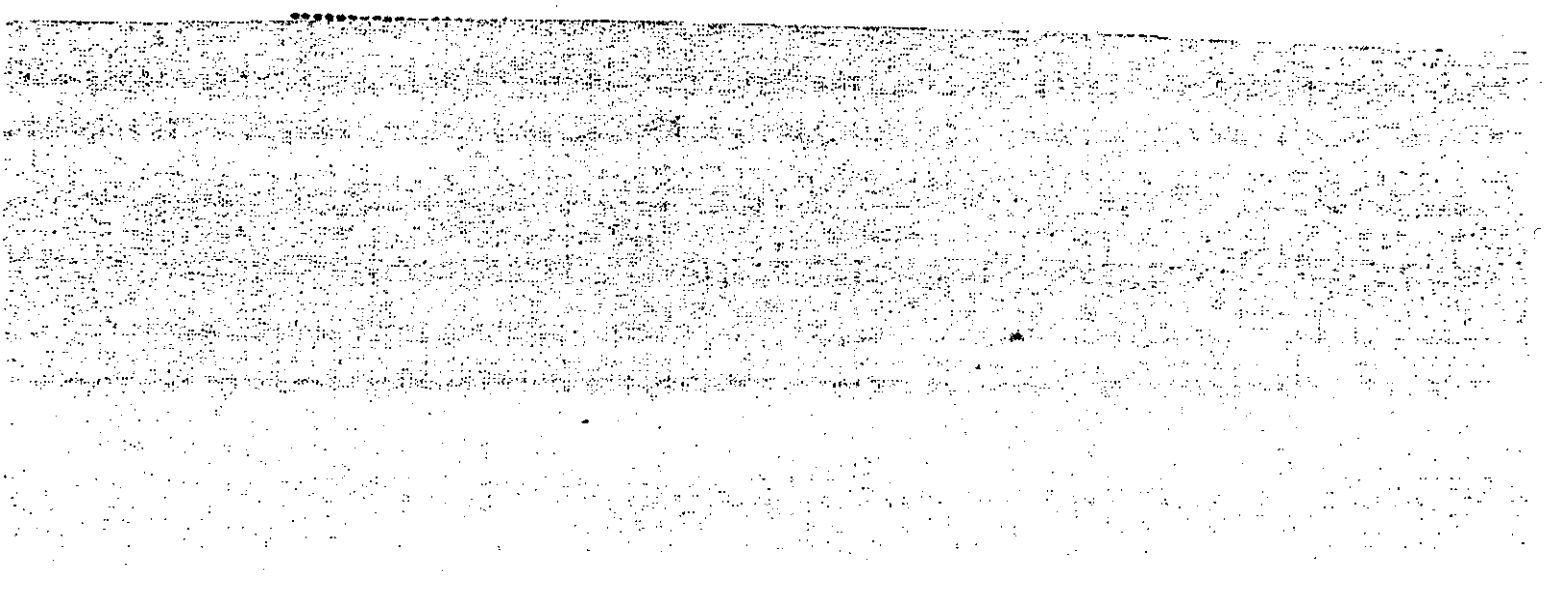
Please release my Administrative Separation report to my attorney, Alan F. Neckritz, pursuant to his Freedom of Information request.

This is an authorization for release of the report.

Thank you for your cooperation.



Michael G. Horowitz, Ph.D.



ATTACHMENT B



OFFICE OF THE GENERAL COUNSEL
1111 20TH STREET, NW
WASHINGTON, DC 20526
(202) 692-2150; (202) 692-2151 (FAX)

*Hand Copy
in Request mail*

TO: ALAN F. NECKRITZ, ESQ.
AL

PAGES: * Four pages (including cover)

FAX: 725
202-256-7110

OFFICE: _____

PHONE: 202-933-8962

FROM: Nancy H. Hendry, General Counsel

Roger Albaugh

Robert Martin

Janice Baker

Ruth Ramsey

Joel Bryant

Susan Shalhoub

Amy Horton

Paul Zimmerman

DATE: August 17, 1999

COMMENTS: Alan, I want to apologize for the typos in this letter - it was re-typed, and I should have caught them. Please let Michael know that under our FOIA ~~regulation~~ regulation and relevant manual section, the Chief of Staff makes decisions for documents located at posts because we no longer have an Office of the Associate Director for International Operations - the attached "transmittal Letter" explains this. Also, I'm going to be out of the office from 8/25-9/9; if any questions come up in the meantime, please call my colleague, Roger Albaugh. I ~~expect~~ expect to be in the office until 8/25 every day and can be reached directly at 202-692-2153.

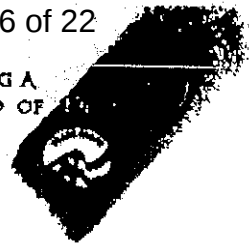
Sincerely,

Susan Shalhoub
Susan Shalhoub

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PEACE CORPS

MAKING A
WORLD OF



August 17, 1999

F. Neckritz, Esp.
2099 Mt. Diablo Boulevard
Suite 201
Walnut Creek, CA 94596

Dear Mr. Neckritz,

This is in response to your request made pursuant to the Freedom of Information Act (FOIA), 5 USC § 552, on behalf of your client, Dr. Michael Horowitz.

You have requested a copy of a "partially-completed or completed Administrative Separation Report regarding Dr. Horowitz."

The document you have requested is being withheld in its entirety pursuant to 5 U.S.C. § 552 (b) (5), which provides for the withholding of documents that are "inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency." 5 U.S.C. (b) (5).

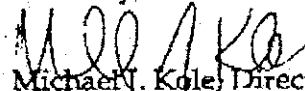
While the FOIA's general policy is to encourage disclosure, the document you are seeking is a draft document, which was pre-decisional in nature. No final decision had been made regarding whether Dr. Horowitz should be separated from service, at the time Dr. Horowitz resigned from service. Due to the nature of the document there is no way to adequately segregate nonexempt portions of the records and still preserve the deliberative process represented by the draft document.

The person primarily responsible for the denial of your request for the document is Thomas Tighe, Chief of Staff. You may appeal the decision to

withhold the document within 15 calendar days from your receipt of this letter by making an appeal in writing, which should specify the date you received this letter, to:

Charles Baquet
Acting Director of the Peace Corps
Peace Corps
1111 20th St., N.W.
Washington, D.C. 20526

Sincerely,



Michael V. Kole, Director
Office of Administrative Services

Cc. Thomas Tighe
Chief of Staff

Patrick Fm'Piere
RD/IAP

Arturo Giron
CD/Tonga

ATTACHMENT C

23 AUG 1999

MICHAEL G. HOROWITZ, Ph.D.
P.O. Box 2475, Nuku'alofa
Kingdom of Tonga, South Pacific
Home phone/machine: [676] 24-490
e-mail: maikolo@tongatapu.net.to

CONFIDENTIAL

August 23, 1999

Mr. Charles Baquet, Acting Director
U.S. Peace Corps
1111 20th Street N.W.
Washington, DC 20526

Dear Mr. Baquet:

Mr. Neckritz received Mr. Kole's fax on Aug. 17, and relayed it to me on Aug. 19.

I hereby request a 180-day extension of the appeal deadline. Mr. Tighe's argument for the withholding of the Admin. Separation Report is so preposterous as to require recomposition of my binational legal team. Mr. Neckritz, a longtime friend, has resigned from the case, justifiably arguing the team now requires a versatile DC firm with FOI expertise. Mr. Foliaki remains counsel here in Tonga, but has this morning made similar recommendation.

The retention of such a firm cannot properly be done via e-mail from the South Pacific, Mr. Baquet. And my priority continues to be the completion of the extended year of service your Tongan post promised my site in late '98.

Upon my arrival in the U.S. in Jan. 2000, my priority will be to personally submit for laboratory analysis three pieces of physical evidence relevant to the case. After results are obtained, I plan to interview a number of law firms who have expressed preliminary interest in the case, and after one is selected I would imagine an expert appeal of Mr. Tighe's decision might be promptly lodged.

I regret this awkward delay, but nobody should know better than a Peace Corps officer the logistic and financial limitations of a (virtual) volunteer over 7000 miles from Washington.

For the nonce, however, I will comment personally and confidentially on Mr. Tighe's argument, should a rationale – even a confidential lay one by the petitioner – be of some assistance to you in the granting of extension:

Never have I confronted a supervisor more resolute than the PC/Tonga CD on Mar. 16th: there was absolutely no doubt in my mind – or my Tongan attorney's mind – CD intended to AS me *within 18 hours* if I did not resign. CD waved the AS Report in front of me and warned me it would be accessible to prospective Federal employers – which I took to be a pointed reference to my UNV application, then pending at USPC.

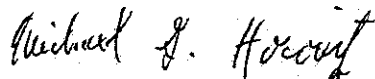
When CD initially raised the resignation option on March 10, I immediately declined it. Those who know me well know I would have never resigned from PC/T if I hadn't thought the probable slander likely repeated in the AS Report might be on the desk of Mark Gearan and Dorothy Sales the following day – i.e., the proverbial loss of two jobs with one stone.

As for classifying the report an "intra-agency memorandum," not only had it become part of my evaluatory file, it had apparently become the *only* evaluation CD cared to consider that day when determining my Peace Corps future. There was no mention I'd been the only PCV in Tonga to be granted a full-year extension at site in Nov. '98 (another had been refused); that I'd been highly recommended to UNV in Dec. '98 (for projected service Mar. 2000-Feb. 2002) by both CD and my APCD; that I'd been the only PCV over the past few years to be cited by the Minister of Labour, Commerce & Industries (re my community project in tourism marketing communications); that for the past year I'd carried on a lively e-correspondence on tourism (in *French*) with His Royal Highness, Crown Prince Tupouto'a; that I'd been promoted at site from sociology instructor to Dept. Head; that I'd chaired a Masters dissertation at site on family planning practice in Tonga; or that I'd served at Post as travel advisor to my fellow PCVs and author of the popular inhouse newsletter column, '*Eva Pē* (Travelin' Round).

Mr. Tighe classifies the AS Report an "intra-agency memorandum" but the Post will ultimately be judged by how it *deployed* the document. And it wielded it that day as my *operative* evaluatory file.

To paraphrase Mark Twain, Mr. Baquet, the most determinant day I ever spent was a half hour with your Tonga Post's "pre-decisional draft."

Sincerely,



Michael G. Horowitz, Ph.D.
RPCV; Member, National Peace Corps Assn.

REPLACES FAX ITERATION

ATTACHMENT D

Date: 15 Oct 1999 13:03:44 -0500 From: James Cuffe <jcuffe@mailserver.peacecorps.gov To: Michael Horowitz <maikolo@tongatapu.net.to Cc: Susie Shalhoub <sshalhoub@mailserver.peacecorps.gov Subject: Appeal extension
Subject: Time: 12:32 PM OFFICE MEMO Appeal extension Date: 10/15/99 Dear Mr. Horowitz: This is to inform you that your request for a 180-day extension of the time to appeal the denial of a Freedom of Information Act request has been denied. A letter officially notifying you of the decision to deny your request was mailed to you today, Friday, October 15, 1999. You have been granted 15 calendar days from the date you receive the letter to appeal the initial denial of the request. However, in consideration of the time it will take for the letter to reach you, I am advising you of the decision prior to the letter's arrival. Sincerely, James Cuffe Executive Secretary and FOIA Officer

ATTACHMENT E

MICHAEL G. HOROWITZ, Ph.D.
e-mail: <maikolo30@hotmail.com>

November 15, 1999

Mr. Charles Baquet
U.S. Peace Corps
1111 20th Street N.W.
Washington, DC 20526

Dear Mr. Baquet:

As I feared in my fax of August 24, I've been unable, despite earnest attempts, to retain via e-mail an attorney with FOIA expertise. As indicated previously, I intend to retain such an attorney, if necessary, after my return to the U.S. in January 2000.

I must say I consider it unreasonable for USPC to expect a virtual volunteer to contend — or arrange for the contention of — arcane points of law while completing overseas assignment in the developing world. Nevertheless, since a lay appeal is better than no appeal, I am appending to this letter my four-page appeal of the withholding of my Administrative Separation Report (ASR, March 1999) by your Administrative Services Division (ASD; August 17, 1999).

Even as I lodge the appeal, however, I am advised to forward the following statement to you regarding my ASR:

- The ASR is a document to which I am entitled to complete right of access under the FOIA (see appended appeal). I'm advised ASD's ruling to withhold it from me is illegal.
- The ASR may be crucial evidence in support of an allegation I have lodged with your American Diversity office ... and crucial evidence in support of a complaint the American Diversity office may invite me to lodge in the near future. The ASR may be crucial evidence in litigation I may initiate before March 15, 2006. The ASR may be crucial evidence in my defense against allegations, charges, or litigation against me, however frivolous, that may occur anytime during my lifetime.

Accordingly, until this matter is mutually resolved, I hold USPC liable for any losses or damages of any kind I may incur due to the destruction, loss, damage, expurgation, or alteration of the ASR during my lifetime.

I regret the legal tone of this letter. Now that your American Diversity office has agreed to investigate my EEO allegation, I am, in fact, optimistic regarding a prompt and just resolution of outstanding differences between me and USPC. If such resolution will involve you and I personally, it will be a pleasure to meet you.

Sincerely,

Michael G. Horowitz, Ph.D.
Member, National Peace Corps Assn.

I hereby appeal the ruling of your Administrative Services Division (ASD, August 17) to withhold my Administrative Separation Report (ASR, Tonga/Niue post, March 1999).

THE ASR

The ASR is a document to which I am entitled to complete right of access under the FOIA because it is:

- the terminal evaluation of my performance as a PCV (January 1997-March 1999) [see below];
- the most pernicious evaluation of my performance in my over 28 months of USPC (trainee/volunteer) service.

Moreover, the ASR may be crucial evidence in support of an EEO allegation I lodged with your American Diversity office on September 27 ... and may be crucial evidence in support of an EEO complaint I may be invited to lodge with that office in the near future. The ASR may also be crucial evidence in my defense against allegations, charges, or litigation against me, however frivolous, that may occur anytime during my lifetime.

The reason for its consequence with respect to the EEO allegation and possible complaint is that it may demonstrate that my presumed sexual orientation, when related to your Tonga/Niue's post's interpretation of the laws of the Kingdom of Tonga, was a contributing factor in the post's decision to administratively separate (AS) me.

The reason for its consequence with respect to my defense against future allegations, charges, or litigation against me is as follows: although the Tonga/Niue post at one point described the allegation of March 8 against me as the infliction of a "traumatic experience" on the complainant, it never volunteered the identity of the complainant nor furnished me a written account of his allegation and subsequent clarification (March 15) ... and on June 30 refused a request by my (Tongan) attorney to provide such an account. Consequently, access to the ASR may be my sole means of obtaining a written account of the March 8 allegation/March 15 clarification. As I expect to expose the complainant's allegation/clarification (as repeated to me) as a key component of a slander/failed blackmail/slander ploy, it is vital to obtain the account. Without the account, I cannot decisively impeach the integrity of the complainant's allegation and, especially if he should eventually obtain citizenship in the U.S., am advised I might remain vulnerable to his allegations, however frivolous, during the course of my lifetime.

For these reasons, it is vital I obtain the complete ASR. The portions of the ASR ASD claims are exempt may be the very portions that are/will be critical to my EEO allegation and subsequent complaint ... and/or critical to my defense against future allegations, charges, or litigation against me.

RATIONALE FOR WITHHOLDING

Your ASD did not cite the complainant's expectation of confidentiality and/or protection from challenge, nor the security of the Tonga/Niue post, nor U.S. international security as reasons to deny me any portion of the ASR. Hence, I am assuming these are not relevant concerns and will not address them.

ASD's rationale for withholding is based solely on its classification of the ASR as a "pre-decisional draft of an intra-agency memorandum." Yet its decision to withhold the ASR denies me the very evidence I require to decisively refute that classification.

LEGAL ASSUMPTION OF THIS APPEAL

It is an assumption of this appeal that the FOIA implicitly regards documents as socially dynamic artefacts — not socially static or socially neutral pieces of paper. It is clear the FOIA protects certain types of documents from disclosure. But the typology used to claim that protection must conform to the spirit of the FOIA: i.e., it must be informed by the *deployment* of a given document in a given social context ... not by mere bureaucratic taxonomy.

To legitimately claim protection from disclosure, an organization must do more than arbitrarily classify a document. It must also demonstrate that the deployment of the document has qualified it for protection.

DEPLOYMENT OF ADMINISTRATIVE SEPARATION AND THE ASR

Without access to the ASR, my sole option within the confines of this appeal is to cite evidence regarding how the phenomena of my AS and ASR were deployed by the Tonga/Niue post from March 12-16 ... and then contest ASD's classification of the ASR based on that deployment:

From March 12-16, my AS was advertised to principals outside USPC administration (i.e., my attorney and myself) first as nearly decided ... and then as actually decided. On March 16, the ASR was advertised to a principal outside USPC administration (i.e., myself) as a decided, completed and imminently dispersive terminal evaluation.

LIST OF PRINCIPALS

To my knowledge, there were five principals within Tonga involved in my hearing (March 10-17): the CD of the Tonga/Niue post (CD), the APCD/education of the post (APCD), the post's attorney, my attorney in Tonga, and myself.

FROM THE PERSPECTIVE OF MY ATTORNEY: ADMINISTRATIVE SEPARATION AS A DECIDED RULING

- On March 15 at the Tonga/Niue post, CD personally advised my attorney the post had decided to imminently AS me.

FROM MY PERSPECTIVE: ADMINISTRATIVE SEPARATION AS FIRST A VIRTUALLY DECIDED ... AND THEN A DECIDED RULING; AND THE ASR AS A DECIDED, COMPLETED TERMINAL EVALUATION

- On March 12 (a.m.), CD warned me he was on the verge of AS-ing me. On the basis of that warning, I retained my attorney in Tonga later that morning.
- On March 16 (p.m.), CD, in the presence of APCD and myself, began the final session of my hearing by announcing: "Michael, I've decided to administratively separate you." He waved a document in front of me he described as my ASR. He recited portions of it to me, one of which was, to the best of my knowledge, a naive misinterpretation of Tongan law. He stated he intended to send it to USPC HQ in DC within 18 hours, where, he added, it would be accessible by employment offices of U.S. agencies. He warned that only my resignation within 18 hours could prevent the ASR from being lodged with HQ.

By the evening of March 16, I joined my attorney in regarding my AS and the ASR as irrevocable ... unless I resigned the following morning. I then acted prudently to promptly protect my pending application with your UNV program, and resigned March 17 (effective March 16).

In summary, my attorney and I made every reasonable effort to determine whether my AS was a decided ruling and my ASR a decided, completed terminal evaluation and, based on the post's actions, concluded with certainty that they were.

The *fact* of my resignation is further evidence my attorney and I had concluded I had no choice but to resign, given my pending application at your U.N. Volunteers program. I had refused CD's invitation to resign on March 10 and between March 11-15 had succeeded in incrementally diminishing the original allegation. With the momentum in my direction, why would I unilaterally wish to resign on March 17? It was rather the post that felt obliged to rush to judgment ... perhaps fearing the complainant's allegation might diminish further over time.

FROM MY PERSPECTIVE: THE ASR AS EXTRA-ADMINISTRATIVE AND DISPERSIVE

My ASR was not deployed as an "intra-agency memorandum." Such memoranda are confidential remarks exchanged by administrators *within* an organization in the process of collective decision-making. They do not include negative evaluations of their employees that are partially recited to these employees ... and/or negative evaluations of employees about to be shared with other employers.

As noted above, references to the substance and nature of my ASR — and its potential to prejudice the employment offices of other U.S. organizations — were not confined to USPC administrators and attorneys:

- As noted above, the ASR was shown and partially recited to me ... and I was warned of its ability to imminently travel to the employment offices of other organizations.

APPARENT MOTIVATION OF POST AND ASD

The post's apparent motive in preparing the ASR was either to AS me or deploy the ASR to obtain my resignation. The post's apparent motive in referring to my AS and my ASR in discussions with my attorney and me was to either inform us of my imminent AS and/or obtain my resignation. But the fact ASD has since withheld the ASR arouses suspicion that, in discussions with the post during the hearing, your General Counsel office advised the post it would be preferable to obtain my resignation rather than AS me.

ASD's apparent motive in withholding the ASR on August 17 was either ignorance of and/or skepticism regarding the above facts regarding my AS and ASR ... or an effort to deprive me of crucial evidence in a future EEO allegation I might lodge with your ADP office.

CONCLUSION

On March 15, the post informed my attorney my AS was decided. On March 16, the post informed me my AS and ASR were decided, and my ASR was imminently dispersive. Based on its deployment of my ASR, the document cannot be considered a pre-decisional draft of an intra-agency memorandum — it is more properly classified according to how it was advertised and deployed by the post on March 16: i.e., as a decided, completed, imminently dispersive terminal evaluation, excerpts of which were shared with a principal outside USPC administration for the purpose of convincing him the evaluation was pernicious.

The FOIA offers protection from disclosure to administrators wishing to collectively brainstorm in confidence. However:

- It does not protect the terminal evaluation of an employee by an organization who:
 - warns the employee's attorney it intends to imminently terminate the employee;

And the following day:

- warns the employee it intends to imminently terminate him;
- recites portions of the terminal evaluation to him;
- warns it will imminently share the terminal evaluation with employment offices of other organizations.

Once an organization has agressed in this manner, it has *de facto* allowed the classification of the terminal evaluation to be determined by how the document was advertised and deployed to principals outside its administration — i.e., as a decided, completed, extra-administrative, and imminently dispersive terminal evaluation. And in making this *de facto* allowance, it forfeits protection from disclosure under the FOIA.

- 8 NOV 1999

Michael G. Horowitz
 Michael G. Horowitz, Ph.D.
 Member, National Peace Corps Assn.

Date

I confirm the accuracy of the above appeal:

L. Foliaki
 Lopeti V. Foliaki, J.D.
 Partner: Stevenson, Nelson, Mitchell, & Foliaki
 Samoa; Cook Islands; Kingdom of Tonga

- 8 NOV 1999

Date

EXHIBIT F

PEACE CORPS

MAKING A
WORLD OF DIFFERENCE



April 19, 2000

Michael G. Horowitz, Ph.D.
c/o Ms. Elaine P. English
Graybill & English, L.L.C.
1920 N Street, NW
Washington, DC 20036

Dear Dr. Horowitz:

This is a response to your November 15, 1999 Freedom of Information Act (FOIA) appeal of the August 17, 1999 denial of your request for a copy of your "partially-completed or completed Administrative Separation Report."

You were denied a copy of the administrative separation report (report) under the authority of 5 U.S.C. § 522 (b)(5), which exempts from disclosure certain privileged documents, including those found to be within the deliberative process privilege. This privilege protects documents that are predecisional and deliberative, the disclosure of which would be detrimental to the deliberative process of agencies. NLRB v. Sears, Roebuck & Co., 421 U.S. 132, 151 (1975); National Wildlife Federation v. United States Forest Service, 861 F.2d 1114, 1119 (9th Cir. 1988).

Your denial was based on a finding that the report is predecisional and deliberative and that the release of the report would be detrimental to the Peace Corps' deliberative process. I have reviewed the report and the files on this matter and I concur with that finding.

Documents are deliberative under FOIA if they are intended to express opinions or make recommendations on legal or policy issues. See Vaugh v. Rosen, 523 F. 2d 1136, 1143-44 (D.C. Cir. 1975). Administrative separation reports are deliberative documents because they express opinions that are based on the law and policy governing early terminations as applied to specific facts.

Documents are predecisional under FOIA if they are generated as part of a continuing process of decision making. Access Reports v. Department of Justice, 926 F.2d 1192, 1196 (D.C. Cir. 1991). Drafts are particularly likely to be found exempt as predecisional documents. Town of Norfolk v. United States Corps of Eng'rs, 968 F. 2d 1438, 1458 (1st Cir. 1992). The report you requested is predecisional because it was generated as part of a continuing process of decision making and never advanced beyond draft form. As a draft, it has not been used by any employee of the Peace Corps as authority to take any action in regard to your early termination or any other matter.

You argue that the report is not predecisional because it constitutes the "terminal evaluation of your performance" for over 28 months of service. You assign a status

Michael G. Horowitz
April 19, 2000
Page 2

to the report that is incorrect as a matter of fact and is inconsistent with Peace Corps' policies on early terminations. On its face, your report does not constitute a final document. It is incomplete, undated, and unsigned. The report was being prepared by the Country Director for the Peace Corps Tonga program but was never finalized because you chose to resign.¹ Paragraph 4.5.2 of Peace Corps' Manual Section 284 permits Volunteers to resign in lieu of being administratively separated and clearly states that administrative separation reports should not be completed when a Volunteer makes the choice to resign before a decision is made to administratively separate the Volunteer.²

You also claim that you have a right to the report because it may be crucial evidence in support of your independent EEO claim filed with the Peace Corps American Diversity Program. This argument also fails. Under FOIA, a requester's right to agency records is not determined by the reasons for the request, North v. Walsh, 881 F.2d 1088, 1096 (D.C. Cir. 1986). Thus, an agency cannot deny otherwise releasable records because of their intended use, nor is it required to release protected documents because of their intended use. Jones v. FBI, 41 F.3d 238, 250 (6th Cir. 1994) ("FOIA's scheme of exemptions does not curtail a plaintiff's right to discovery in related non-FOIA litigation; but neither does that right entitle a FOIA plaintiff to circumvent the rules limiting release of documents under FOIA."); United States v. Agunbiade, 1995 WL 351058, at 7 (E.D.N.Y. 1995) (FOIA requester "cannot employ the statute as a means to enlarge his right to discovery").

Finally, release of the report would cause harm to the Peace Corps' deliberative process. Country Directors must be able to investigate and document their concerns about Volunteers without fear that unfinished documents will be released that may contain errors or be misleading or embarrassing to either the volunteer or other individuals mentioned in the report.

Based on the foregoing, I have determined that the report is protected under the deliberative process privilege because it is predecisional and deliberative and its release would cause harm to the Peace Corps' deliberative process. I find no error in the earlier denial. I deny your request for the report in full because the factual material is so inextricably connected to the deliberative material that disclosure of the factual information would expose and cause harm to the Peace Corps' deliberative process.

¹ No final version of the report was forwarded to the Peace Corps Office of Special Services where final administrative separation reports are required to be forwarded and maintained in the Volunteer's file. See MS 284, Attachment A, Note to Deciding Official.

² Please note that Paragraph 4.5.2 also provides that resignations in lieu of separation cannot be appealed "under any circumstances."

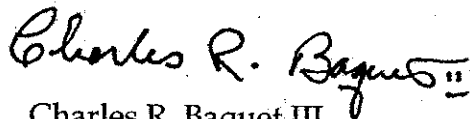
Michael G. Horowitz
April 19, 2000
Page 3

Finally, I am also denying your request under 5 U.S.C. § 552(b)(6) because the report contains information about another individual, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Documents that qualify for this exemption include personnel, medical, or similar files that contain private information about individuals. The Supreme Court has established a broad standard for determining what constitutes private information. Any information that applies to a particular individual is considered to be private under this exemption. United States Department of State v. Washington Post Co., 456 U.S. 595, 602 (1982). The report meets this test because it contains information about a specific individual.

The protection provided by Exemption 6 does not apply if the requester can show that the public's right to access is greater than the privacy rights of the individual. In light of the fact that the draft report has no formal significance, as it was never finalized or used for any official action by the Peace Corps, we are not persuaded that your interest in disclosure in this case has greater importance than the privacy rights of the other individual. To release a draft document that contains private and sensitive information about another individual would be an unwarranted invasion of that individual's privacy, especially when the information, in its unfinished state, may be unreliable or misleading.

Pursuant to 5 U.S.C. 552(a)(4)(B), you may seek judicial review of this determination by filing suit to enjoin the Peace Corps from withholding the document requested and to order production of the document. Such a suit may be filed in the United States District Court in the district where you reside, where your principal place of business is located, the District of Columbia, or where the document is located.

Sincerely,



Charles R. Baquet III
Deputy Director

RECEIVED

JUL 2 2000

U.S. DEPARTMENT OF STATE
RECEIVED BY