

EXHIBIT J



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

In reply to: 20-08170-F

July 21, 2020

Sent via email address: Alexander.Stout@lw.com

Mr. Alexander L. Stout
Latham & Watkins LLP
555 11th Street, N.W., Suite 1000
Washington, DC 20004-1304

Dear Mr. Stout:

This is in reference to your Freedom of Information Act/Privacy Act request, dated July 15, 2020, which was received by Brian Griffin, Deputy Chief Counsel, Benefits Law Group. 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 on July 16, 2020.

We are submitting this request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, on behalf of Swords to Plowshares for records in the possession of the U.S. Department of Veterans Affairs (the "Department") relating to the proposed rule to "Update and Clarify Regulatory Bars to Benefits Based on Character of Discharge." Update and Clarify Regulatory Bars to Benefits Based on Character of Discharge, 85 Fed. Reg. 41471 (proposed July 10, 2020) (the "Proposed Rule").

- 1. Documents, publications, studies, or information considered in developing the Proposed Rule.***
- 2. Communications pertaining to the Proposed Rule.***

Your request was assigned to OGC FOIA Tracking Number 20-08170-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 hardcopy 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. We encourage you to file your new requests or appeals using our electronic submission to <https://www.va.gov/FOIA/Requests.asp> or by email to OGCFOIARequests@va.gov. To confirm receipt of a previously submitted FOIA request, or for status inquiries, please contact us via [email](#).

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

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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 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 OGC FOIA office at email address OGCFOIArequests@va.gov.

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.

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4. The disclosure contributes significantly into public understanding.

Sincerely,

M. Renee Baxter

M. Renée Baxter

FOIA Officer

Office of General Counsel

U.S. Department of Veterans Affairs