



United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240

IN REPLY REFER TO:
Appeal No. 2015-030

May 21, 2015

Jeffrey R. Galloway
Etter, McMahon, Lamberson, Clary
& Oreskovich, P.C.
618 West Riverside Avenue, Ste. 210
Spokane, WA 99201

Dear Mr. Galloway:

This letter is in follow-up to the Department of the Interior's ("Department") May 21, 2015, determination on the November 21, 2014, Freedom of Information Act ("FOIA") appeal ("appeal") (No. 2015-030) that you filed on behalf of your clients, [REDACTED] EX6. Your appeal concerned the National Park Service's ("NPS") decision to withhold, pursuant to FOIA exemption (6),¹ the names and other personal identifying information of individuals named in an Incident Report concerning a "dog attack" that occurred in August 2014 at Fort Spokane Campground at Lake Roosevelt National Recreation Area.

The Department concluded in its decision on the appeal that the NPS could not rely on FOIA exemption (6) as a basis to deny your clients (or you as their attorney) access to the information it deleted from the requested Incident Report, as such information is "otherwise accessible" to them (and you) under the provisions of the Privacy Act.² However, subsequent to the decision on the appeal, the NPS advised the Department that the social security number of an individual who is not your client is identified on a document that is attached to the Incident Report. As the Department noted in its decision on the appeal, the NPS is precluded from releasing social security numbers under the Privacy Act unless the information belongs to the individual requester.³ As a result, the individual's social security number is not "otherwise accessible" to you or your clients under the Privacy Act. Therefore, the Department finds it necessary to amend its May 21, 2015, decision on your appeal.

The Department is invoking FOIA exemption (6)⁴ as a basis to withhold the individual's social security number. The individual has a privacy interest in withholding the social security number, as

¹ FOIA exemption (6) allows an agency to withhold "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6).

² 5 U.S.C. § 552a(t)(1).

³ See May 21, 2015, decision on FOIA Appeal No. 2015-030, pg. 2, footnote 11.

⁴ An agency's use of FOIA exemption (6) as a basis to withhold information requires identifying and balancing relevant privacy and public interests to determine whether disclosure is appropriate. See *Department of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749 (1989). When the privacy interest at stake and the public interest in disclosure have been determined, the two competing interests must be weighed against one another to determine which is the greater result of disclosure: the harm to personal privacy or the benefit to the public.

disclosure would allow unwarranted intrusions into the individual's private life. Further, the Department is not aware of any public interest⁵ that would outweigh the privacy interest in withholding this information, as disclosure sheds no light on the NPS's performance of its statutory duties. Therefore, the Department concludes that, on balance, the privacy interest in withholding outweighs the public interest in disclosure, and the social security number will continue to be withheld pursuant to FOIA exemption (6). **The NPS will delete the individual's social security number from the document attached to the Incident Report and it will mark the area of the deletion with the code "EX6" for your reference.**

The NPS will continue to release to you on behalf of your clients the remainder of the information in the Incident Report that is the subject of the appeal, as directed in the May 21, 2015, decision.

If you are dissatisfied with the Department's decision to invoke FOIA exemption (6) as a basis to withhold the individual's social security number, you have a right to seek judicial review under 5 U.S.C. § 552(a)(4)(B).

Please call the FOIA Appeals Office at (202) 208-5339 with any questions regarding this letter.

Sincerely,



Darrell R. Strayhorn
FOIA & Privacy Act Appeals Officer
Department of the Interior

cc: Charis Wilson, FOIA Officer, NPS
Felix Uribe, Privacy Act Officer, NPS
Nancy Hori, Pacific West Regional FOIA Coordinator, NPS
Nolan Shishido, Assistant Regional Solicitor, SOL-Pacific Northwest Region
Cindy Cafaro, Departmental FOIA Officer

⁵ Under the FOIA, the "public interest" to consider under exemption (6) is limited to the FOIA's "core purpose" of "shedding light on an agency's performance of its statutory duties." *Id.* at 773-775.