



DEPARTMENT OF VETERANS AFFAIRS
Veterans Health Administration
Washington DC 20420

July 15, 2013

In Reply Refer To:

FOIA Request: **VHA-13-04245-F**

Chase Cook
375 Triad Village Drive, Unit 1
Norman, OK 73071

Dear Mr. Cook:

This letter is the initial agency decision to your May 1, 2013 request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, to the Department of Veterans Affairs (VA), requesting the following: "the aggregate data assembled by the Veterans Affairs Mental Health Services Department for the 2012 Suicide Data Report authored by Dr. Robert Bossarte and Dr. Janet Kemp."

The program office conducted a search and provided me with a sample of this information for my review. My review is now complete. Your request for a copy of the data collected from the study is being denied in full under FOIA Exemption 5.

By way of background, The State Mortality Data project was developed to address previously unanswered questions about the burden of suicide among Veterans. It is critical to understand that negotiations for data use agreements are ongoing and the multi-step process required to validate Veteran status is not complete for all data received. As the study is ongoing, no results using validated data have been published. Researchers are currently analyzing validated data for the time period between 1999-2010 and plan to share their findings in future publications and reports. A description of the State Mortality Project and results from preliminary analysis of raw data can be found in the recently release Suicide Data Report (<http://www.va.gov/opa/docs/Suicide-Data-Report-2012-final.pdf>) .

The collected survey data is pre-decisional as the data is in raw form and not in a format suitable for release; the study is ongoing with additional periods of data collection and analysis planned; and the quality and internal consistency of the data have not been fully evaluated by VA. Results from the study are designed to be used by VA leadership in the development of policy and provision of care to Veterans. The results will also be used to inform Congress, Veterans, the public, and other stakeholders about the burden of suicide among Veterans.

I have concluded that the information in question is protected by FOIA Exemption 5, 5 U.S.C. § 552(b)(5), which protects "intra-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." There are two core requirements that must be met in order for the

deliberative process privilege to be invoked. First, the communication/document must be predecisional. Second, the communication must be deliberative. That is, the document must be a direct part of a deliberative process.

As stated previously, the raw research data in question is not publicly available information and has been kept internal through the course of the research study, clearly making the documents intra-agency documents. Regarding the first requirement for invoking the deliberative process privilege, the raw research data in question in your FOIA request is clearly predecisional. To date, no final studies have been published or concluded as the study in question is ongoing. Regarding the second requirement noted above, research processes are deliberative scientific processes by their very nature.

The essence of the scientific research process constitutes a rigorous deliberation in which scientists examine, question, test, reject and modify ideas as they work toward a conclusion. While transparency is an important principle that VA attempts to abide by in most cases, disclosure of raw research data poses a serious threat to the scientific process, a threat that we believe Exemption 5 is designed to protect against. Specifically, the disclosure of raw research data threatens to facilitate misinterpretation of scientific findings by highlighting preliminary evaluations and opinions, conflating facts with assumptions and implying conclusions without a valid scientific process or review. Without adequate protection of data, researchers may reasonably fear that their deliberative process can be compromised and their intellectual property wrongfully exposed. It is for these reasons that VHA is asserting Exemption 5 for the protection of the raw research data in question.

You may appeal the adverse determinations made in this response to:

Office of the General Counsel (024)
Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420

If you should choose to file an appeal, please include a copy of this letter with your appeal and clearly indicate, in writing, the basis for your disagreement. In accordance with VA's implementing regulations at 38 C.F.R. 1.559(d), please be advised that your appeal must be postmarked no later than sixty (60) days of the date of this letter.

I apologize for the delay in processing your request. I appreciate your patience. If you should have any questions, please feel free to contact me at (202) 461-5543.

Sincerely,



Jeffrey M. Parrillo, MBA, MHA, CIPP/G
VHA FOIA Officer