



VA Connecticut Healthcare System  
950 Campbell Ave.  
West Haven, CT. 06516

**RE: FOIA 26-02515-F**

January 7, 2026

James Flannery  
jim-flannery@proton.me

Dear Mr. Flannery:

This letter acknowledges receipt and seeks clarification to your November 24, 2025, request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, submitted to the VA Connecticut HCS FOIA Office for the following records:

Any and all information pertaining to patient harm resulting from iatrogenic affects due to electroconvulsive treatment at West Haven VA Medical Center, not to exclude those resulting from \*involuntary\* electroconvulsive treatment.  
(Date Range for Record Search: From 01/01/2015 To 12/31/2024)

### **Request Procedural History**

As indicated in their November 25, 2025 letter, the VHA FOIA Office transferred your request to VA Connecticut HCS FOIA Office for further processing and direct response to you under the FOIA tracking number of 26-02515-F. Please include this tracking number in all future communications concerning this FOIA request. As expressly authorized under the FOIA, the VA processes requests using multi-track processing which allows us to process requests on a first-in, first-out basis in either a simple or complex processing track. This allows us to respond to relatively simple requests more quickly than requests involving complex and/or voluminous records. Your request was placed in the Complex processing category.

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 me. My contact information is listed below.

### **Fee Waiver**

In your request you also sought a fee waiver. Based on the analysis of the information presented in your request, I have determined that VHA is not required to waive the fees associated with producing records responsive to your FOIA request. Therefore, I am denying your fee waiver request.

The FOIA directs agencies to furnish documents without any charge or at reduced fee if two requirements are met, 5 U.S.C. § 552(a)(4)(A)(iii). Both requirements must be met before fees can be waived. The first requirement is that “disclosure of the requested information is the public interest because it is likely to contribute significantly to the public understanding of the operations or activities of the government”. The second requirement is that the “disclosure of the information is not primarily in the commercial interest of the requester”. Where one or both requirements are not satisfied, a fee waiver is not warranted under the statute. Further, the requester should address the statutory requirements in sufficient detail for the agency to make an informed decision as to whether it can appropriately waive fees. In this regard, the requester must demonstrate his or her entitlement to a fee waiver.

To waive the FOIA fees associated with producing the requested records, I must determine, based upon a review of the information submitted, that: (1) the records concern identifiable operations or activities of the agency; (2) the information in the documents is “likely to contribute significantly to the public’s understanding” of the agency’s operations and activities; and, (3) after disclosure to you, the records will be further disseminated to a reasonably broad audience of persons interested in the subject. I must also determine that (1) you do not have a commercial interest that would be furthered by the requested disclosure, or, if so, (2) the magnitude of the identified commercial interest of the requester is not sufficiently large, in comparison with the public interest in disclosure, that the disclosure would be “primarily in the commercial interest of you.”

I have determined your request does not contain sufficient detail to meet the public interest requirement, as you do not specify how the requested information is likely to contribute *significantly* to the public’s understanding of VHA’s operations or activities and your request also does not describe how you are in a position to disseminate the information requested to members of the general public and therefore contribute to the general public’s understanding. For these reasons, your request for a fee waiver is denied.

### **Clarification**

The FOIA provides that any person has the right to obtain access to federal agency records, except to the extent that such records or portions of the records are protected from public disclosure by one of the nine FOIA exemptions or by one of three special law enforcement record exclusions. The FOIA requires federal agencies to make their “records” promptly available to any person who makes a proper request. A proper FOIA request is defined as one that reasonably describes the records sought and is made in accordance with the agency’s published rules stating the time, place and fees (if any) procedures to be followed.

VA’s FOIA implementing regulations (rules) are found at Title 38 Code of Federal Regulations (CFR) sections 1.550 through 1.562. VA requirements for making FOIA requests are found in 38 C.F.R. § 1.554 which provides that a FOIA request must be in writing and describe the records sought in enough detail to allow VA personnel to locate them with a reasonable amount of effort. To the extent possible, the requester should include specific information about each record sought, such as the date, title or name, author, recipient and subject matter of the document. Wide-ranging requests that lack specificity, or contain descriptions of very general subject matter, with no description of specific records, may be considered “not reasonably described” and not subject to further processing.

As indicated in the above paragraph, the FOIA provides that agencies are to search for records responsive to FOIA requests that “reasonably describe” the records requested. Stated

another way, VHA will search for records responsive to a FOIA request when that request describes the records sought in such a manner that an agency employee familiar with the subject area can identify the records requested and locate those records with a "reasonable amount of effort." For example, a request for "any and all documents" that refer or relate in any way to a given subject would not be considered reasonably described as an employee would not be able to determine exactly what documents are being sought. A request for any and all documents that refer or relate in any way to a subject generally would not be considered to reasonably describe the records sought and would impose an unduly burdensome search responsibility on the agency as it is unknown exactly what records are being requested.

I have determined that your FOIA request does not reasonably describe the records with sufficient particularity for VHA employees to identify and search for the records with a reasonable amount of effort. Courts have explained that "[t]he rationale for this rule is that FOIA was not intended to reduce government agencies to full-time investigators on behalf of requesters," or to allow requesters to conduct "fishing expeditions" through agency files." Courts have recognized that an agency's FOIA staff is neither required to have "clairvoyant capabilities" to discern the requester's needs, nor must they spend "countless numbers of personnel hours seeking needles in bureaucratic haystacks."

In accordance with VA's implementing regulations, found at 38 C.F.R. § 1.554(d)(4), I am providing you with 30 calendar days to provide clarification on your request. If I have not heard from you by January 21, 2026, I will assume that you are no longer interested in pursuing your request and will take the appropriate measures to administratively close your request. Please be advised, the time frame, which we have to respond to your FOIA request does not run while we are waiting your response to our request for clarification.

### **Fee Category Determination**

The FOIA, 5 U.S.C. § 552(a)(4)(A)(ii), places all FOIA requesters in one of three categories for fee purposes. The three categories of FOIA requesters are (1) commercial use requesters; (2) educational institutions, noncommercial scientific institutions, and representative of the news media; and (3) all other requesters. I have determined your request to be in the category of All Other. My determination to classify this request as a All Other request is based on the nature of your request.

As an All Other, VA FOIA implementing regulations found at 38 C.F.R. §1.561(c)(4) state that the requester will be charged search fees for all time spent searching for responsive records, except the first two hours of search time are free and for the cost of reproduction of the records only, excluding the charges for the first 100 pages. In addition, VA FOIA regulation 38 C.F.R. § 1.561(h)(1) states that the VA will not charge the requester if the fee is \$25 or less. Moreover, the All Other requester will be charged the cost of searching for and reproducing the records even if there is ultimately no disclosure of records.

A fee estimate will be issued as applicable to the request upon receipt of your clarification.

### **Appeal**

Please be advised you may appeal the denial for fee waiver made in this letter to:

Appeal mailing address:

Office of the General Counsel (024)  
Department of Veterans Affairs  
810 Vermont Avenue, N.W.  
Washington, D.C. 20420  
Appeal fax: 202-273-6388  
Appeal email address: [ogcfoiaappeals@va.gov](mailto:ogcfoiaappeals@va.gov)

If you should choose to file an appeal, your appeal must be postmarked or electronically transmitted no later than ninety (90) calendar days from the date of this letter. Please include a copy of this letter with your written appeal and clearly state why you disagree with the determinations set forth in this response.

You may also seek assistance and/or dispute resolution services for any other aspect of your FOIA request from VHA's FOIA Public Liaison and/or the Office of Government Information Services (OGIS) as provided below:

VHA FOIA Public Liaison:  
Email Address: [vhafioahelp@va.gov](mailto:vhafioahelp@va.gov)  
Phone Number: 833-880-8500

Office of Government Information Services (OGIS)  
Email: [ogis@nara.gov](mailto:ogis@nara.gov)  
Mailing address:  
Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road  
College Park, MD 20740-6001

If you should have any further questions, please feel free to contact me at 203-932-5711 ext. 4109 or [vact.vafoia@va.gov](mailto:vact.vafoia@va.gov).

Sincerely,

Walter Jofre  
VA Connecticut HCS FOIA Officer