

United States Senate

COMMITTEE ON VETERANS' AFFAIRS

WASHINGTON, DC 20510

July 25, 2018

Peter O'Rourke
Acting Secretary of Veterans Affairs
810 Vermont Ave, NW
Washington, DC 20420

Acting Secretary O'Rourke,

As a Department that frequently highlights its transparency, the Department of Veterans Affairs (VA) must also place a high priority on timely responses to Freedom of Information Act (FOIA) requests from the media, veterans, and other citizens. As you know, this process must be free from influence or interference by political appointees. Documents, emails from government servers, and other material that is responsive must be provided to the requestor, regardless of whether it is politically advantageous, embarrassing, or could shed light on errors or failures.

We are aware that the vast majority of FOIA requests that come to the Department are from veterans or family members of veterans seeking medical records, and that those generally are handled appropriately at local facilities. However, for those FOIA requests that come to VA central office that require significant document production and/or emails sent from government accounts, we would ask that you answer the following questions:

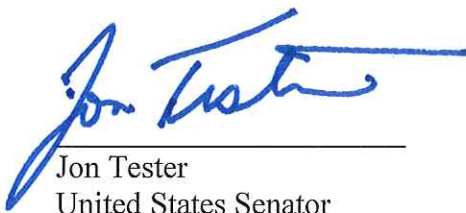
- Who in the Department is responsible for ensuring appropriate and complete response to FOIA requests? Additionally, please provide the same information for each administration and staff office.
- Who is responsible for searching and pulling emails or other documentation for responsive material? How does the Department ensure that an employee provides a complete production of responsive materials? What accountability is there for an individual who does not provide responsive material? If a FOIA Officer or FOIA staff believes they are not receiving full cooperation from employees, please describe the process in place for the FOIA staff to ensure they receive responsive information.
- Please provide an outline of the process, including for each step in the process, the individuals or individual positions responsible for managing it and the length of time it takes to do so. In particular, how does the Department ensure thorough responses when responsive materials are held by different organizations?
- Prior to responding to a FOIA, is there a notification period provided to any internal audiences? If so, please provide the list of positions who currently receive the notification and any instances from 2017 or 2018 in which they have requested an outgoing response be held.

- Please describe any internal reporting that is provided to Department or administration and staff office leadership regarding the timeliness of FOIA productions. Please provide examples of reports or other documents provided to Department-level leadership for 2017 and 2018.
- Who in the Department, as well as each administration and staff office is responsible for determining what is included and excluded in the final production, as well as redactions and the appropriateness of those redactions?
- What role do any political appointees play in the FOIA process whether at the Department or subordinate level?
- Please provide information regarding the Department's actions to improve timeliness and thoroughness in responding to requests. Does the Department or its subordinate entities utilize any multi-track systems related to request complexity or use any other mechanisms to provide quicker responses?
- Please provide the following information for the 10 oldest outstanding requests and 10 oldest appeals: date received, administration or office, whether the requestor is an organization or individual, whether a partial disclosure has been made, and the basis for denial.
- Please provide the average length of time for providing FOIA responses from FY 2016, FY 2017, and FY2018 disaggregated by administration and staff office.
- How are requesters able to track the status of their pending requests?
- Please provide information about whether or not there has been any increase in the number of or complexity of requests received by the Department or its administrations or staff offices, and how the Department has responded to ensure these requesters do not experience long waits.
- Please provide information about how the Department determines whether FOIA Officers or staff are adequately trained and resourced.

We look forward to better understanding the process for FOIA productions within the Department, and to clarify the roles and responsibilities of those participating in the productions. We are especially interested in any oversight mechanisms that may be in place to ensure that responsive emails are turned over by employees.

Thank you for your timely response.

Sincerely,



Jon Tester
United States Senator



Richard Blumenthal
United States Senator



Sherrod Brown
United States Senator



Tammy Duckworth
United States Senator



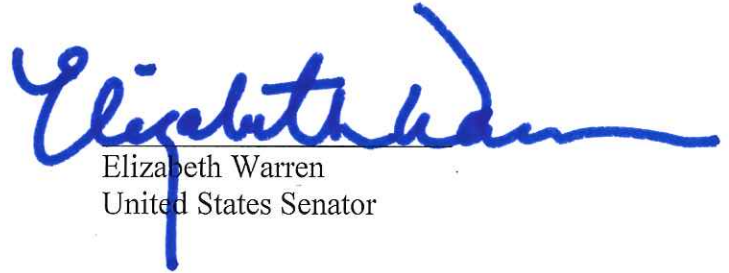
Heidi Heitkamp
United States Senator



Mazie K. Hirono
United States Senator



Tim Kaine
United States Senator



Elizabeth Warren
United States Senator