



**OFFICE OF INSPECTOR GENERAL**

WASHINGTON, DC 20201



FOIA Request 2013-0470

Freedom of Information Act Office  
Cohen Bldg, Suite 1062  
330 Independence Ave., SW  
Washington DC 20201

November 19, 2013

Dutch Franz  
PO Box 237  
Brinnon, WA 98320-0237

Dear Mr. Franz:

This is the final response to the June 22, 2013, Freedom of Information Act (FOIA) request you submitted to the Department of Health and Human Services (HHS), and received by the Office of Inspector General (OIG) on June 25, 2013, seeking:

Any written document, standard operating procedure, policy letter, authorization document, justification letter, training records, budget statement, and equipment/weapons list of the DHHS IG program/team/agents that has/have been trained by military/law enforcement contractors in tactical room/building clearing, assault rifle training, tactical enforcement teams, clandestine surveillance, tactical agent extraction, close quarters combat, explosive and mechanical entry techniques, specialized assault rifle training including with the LWRC family of weapons and pistol training. Please provide information regarding how long agents/DHHS personnel have been receiving this training, training records describing the type of training conducted and what organization or private business performed the training for DHHS and how many rounds (bullets) were fired during training and of what type/caliber and the budget for this training. The number of agents/personnel trained by these groups, the organization and mission of these teams and/or personnel that requires this training. Please provide data on how often these teams/agents have performed tactical enforcement operations (forced or denied entry or operations where assault weapons were present/carried by DHHS agents/personnel, and incidents (other than training) where a fire arm was discharged for any reason by DHHS personnel. Please also provide information on DHHS clandestine surveillance programs to include the use of listening devices; electronic, digital, and wire surveillance, and computer/cellphone meta data analysis and documents showing the methods for getting authorization to employ such methods in pursuit of the department's mission. And please provide data on how many times these methods have been used in the last two years. In a telephone conversation on July 2, 2013, you agreed to the following:

- 1) Any document indicating the type of training provided to our agents specifically dealing with LWRC
- 2) Type of advanced weapons training
- 3) Close quarter combat training documents
- 4) Para-military training provided by contractors
- 5) Number of agents trained and the scope and justification for the training
- 6) Cost of weapons purchased

As indicated in my September 30, 2013 letter, we referred three-hundred-forty-three (343) pages to the Program Support Center (PSC); the PSC has determined to release one-hundred-seventy (170) pages with portions withheld under FOIA Exemptions (b)(2)High, (b)(4), (b)(6), (b)(7)(c) and (b)(7)(e) and withhold, in full, one-hundred-seventy-three (173) pages under FOIA Exemptions (b)(4), (b)(6), (b)(7)(c) and (b)(7)(e).





DEPARTMENT OF HEALTH AND HUMAN SERVICES

# OFFICE OF INSPECTOR GENERAL

WASHINGTON, DC 20201



FOIA Request 2014-0767

Freedom of Information Act Office  
Cohen Bldg, Suite 1062  
330 Independence Ave., SW  
Washington DC 20201

December 5, 2014

Dutch Franz  
15 Ward St, Apt 2  
Seattle, WA 98109

Dear Mr. Franz:

This is in response to the August 29, 2014, Freedom of Information Act (FOIA) request you submitted to the Department of Health and Human Services (HHS), Office of Inspector General (OIG), seeking documents showing the number of rifles by type that each Region of DHHS has. Priority should be given to the current number of rifles, but quarterly or annual reports showing the number of rifles by Region for the last 10 years is also requested.

I can neither confirm nor deny the existence of any records relative to your request. If they exist, records of this nature would be exempt from disclosure under FOIA exemptions (b)7(F). This exemption exempts from mandatory disclosure records which could reasonably be expected to endanger the life or physical safety of any individual.

There is no charge for FOIA services in this instance because billable fees are below the Department's \$25 cost effective threshold.

You may appeal my decision to neither confirm nor deny the existence of the record(s) responsive to your request. Your appeal must be mailed within 30 days from the date of this letter, to the Director, News Division, Office of the Assistant Secretary for Public Affairs U.S. Department of Health and Human Services, Mary E. Switzer Building, Room 2221, 330 C Street, SW, Washington, DC 20201. Clearly mark both the envelope and your letter "Freedom of Information Act Appeal."

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

Sincerely,

*Robin R. Brooks*  
Robin R. Brooks  
Director  
Freedom of Information

Freedom of Information Appeal

dutch franz  
15 Ward, Apt #2  
Seattle, WA 98109  
January 5, 2015

Director, News Division  
Office of the Assistant Secretary for Public Affairs  
U.S. Department of Health and Human Services  
Mary E. Switzer Building, Room 2221, 330 C Street, SW  
Washington, DC 20201

To Whom It May Concern:

The purpose of this letter is to appeal the denial of FOIA Request 2014-0767 by Director Robin Brooks. The FOIA requested documents showing the number of rifles by type that each Region of HHS has; the current number of rifles and quarterly or annual reports showing the number of rifles by Region for the last 10 years.

With the growing public concern over the increased militarization of law enforcement and in the wake of witnessing the response after the shooting by law enforcement of an unarmed citizen in Ferguson, the public is highly concerned with the military weapons now being employed by law enforcement against U.S. citizens.

I have a difficult time understanding Ms. Brooks denial of my request when The Department of Defense has been forthcoming with the type, number, and location of all assault weapons they have given to law enforcement. In turn, it is well documented that the FBI, DEA, and local law enforcement have and use militarized assault weapons. Why is DHHS being more secretive and evasive than these more traditional law enforcement with arguable a more "National Security" mission?

Ms. Brooks cited several exemptions that she felt justified her denial of my request. They include (b)7(F) that the DOJ explains as:

*Exemption 7(F) of the Freedom of Information Act protects law enforcement information that "could reasonably be expected to endanger the life or physical safety of any individual." Courts have routinely upheld the use of Exemption 7(F) to protect the identities of law enforcement agents.<sup>2</sup> However, given that this Exemption protects the safety of "any individual," courts have held that Exemption 7(F) can protect the names and identifying information of non-law enforcement federal employees, local law enforcement personnel, and other third persons in connection with particular law enforcement matters.*



The case law associated with this exemption largely speaks to the identity of law enforcement, informants, and businesses that cooperate with them. I am not asking for any agent's name and it is a stretch to apply this exemption to the acknowledgement that the DHHS has assault weapons. Again, the FBI and DEA have acknowledged the use of assault weapons without arguing that it would endanger their officers.

The next exemption noted by Ms. Brooks was 5 U.S.C. / 552(c) (2006 & Supp.IV (2010)). Again, according to the DOJ, there are three exemptions that fall into this category and are characterized as:

*The first exclusion protects against disclosure of a pending criminal law enforcement investigation where there is reason to believe that the target is unaware of the investigation and disclosure of its existence could reasonably be expected to interfere with enforcement proceedings. The second exclusion, which applies only to records maintained by criminal law enforcement agencies, protects against disclosure of unacknowledged, confidential informants. The third exclusion, which applies only to the FBI, protects against disclosure of foreign intelligence or counterintelligence, or international terrorism records, when the existence of those records is classified.*

By this standard I am not asking about a pending investigation, a confidential informant, and the third exemption only applies to the FBI and even if it didn't it would hardly be interesting news for a foreign power to know how many assault weapons the DHHS has.

Director, we now live in an age where the common citizen has learned that its government collects every digital communication made, has participated in illegal detention and torture, and has provided war fighting armored vehicles to local law enforcement. All of these activities were cloaked in secrecy and are contrary to the very fabric of our nation.

I am asking for very broad information, the number and type of assault weapon by Region, I'm not asking for how they are secured or where or how they are used. Please provide as much information as possible to aid in the democratic necessity of a well-informed citizenry.

Sincerely,

dutch franz  
dutch@dutchfranz.com