



LEGAL SERVICES CORPORATION

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Alexander D. Forger
President

Writer's Direct Telephone
(202) 336-8814

February 5, 1997

James Bopp, Jr., President
National Legal Center for the
Medically Dependent & Disabled, Inc.
50 South Meridian Street, Ste. 200
Indianapolis, IN 46204-3541

Dear Mr. Bopp:

This is a response to your appeal of a partial denial for information made pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. §552 (1988). You have appealed the partial denial of your October 2, 1996 request (96-76) for correspondence and complaints relating to certain enumerated investigations of the National Legal Center for the Medically Dependent & Disabled, Inc.

On November 5, 1996, you were provided with 11 pages of records responsive to your request, some of which were redacted to avoid an unwarranted invasion of the personal privacy of third parties, pursuant to Exemption 6 of the FOIA, 5 U.S.C. 552(b)(6) and 45 C.F.R. §1602.9(a)(5). However, we also notified you that we were withholding 9 pages of records pursuant to 5 U.S.C. §552(b)(6) and 45 C.F.R. §1602.9(a)(5), to avoid unwarranted invasion of personal privacy. You now request release of the 9 pages of records withheld on the grounds that such "correspondence" does not constitute "personnel and medical files and similar files" within the meaning of the personal privacy protections afforded by Exemption 6.

Contrary to your contention, the Exemption 6 protection for "similar files" has long been interpreted broadly to encompass information of a personal nature identifiable to a specific individual. United States Dept. of State v. Washington Post Co., 456 U.S. 595, 600 (1982). It is the personal nature of the material, not the type of file in which it is stored, that determines whether a privacy interest exists. Id. at 601. The material you have requested clearly contains personal information which comes within the protections of Exemption 6. The question, then, becomes one of whether release of the personal information would constitute a "clearly unwarranted invasion of

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personal privacy," thereby triggering the exemption. That determination rests on a "balancing of interests between the protection of an individual's private affairs from unnecessary public scrutiny, and the preservation of the public's right to governmental information." Department of the Air Force v. Rose, 425 U.S. 352, 372 (1976).

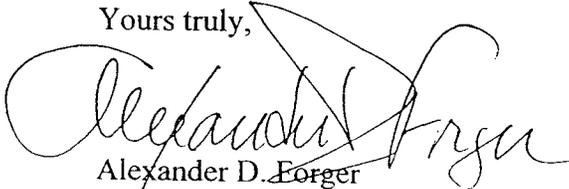
There are strong personal privacy interests at stake in the materials you have requested. Private citizens that write to an agency expressing personal opinions or providing personal information have a reasonable expectation that the material will be treated as confidential and, thus a recognized privacy interest. See, e.g., Strout v. United States Parole Comm'n, 40 F.3d 136, 139 (6th Cir. 1994). Such a general expectation is heightened here by an express request for confidentiality. In particular, complainants and those providing information for investigatory purposes have a well-recognized and strong privacy interest. See, e.g., McCutchen v. HHS, 30 F.3d 183, 189 (D.C. Cir. 1994). In this case, these privacy interests are even stronger given the highly sensitive and personal information contained in much of the material.

The public interest consideration to be weighed in the balance is whether the information sheds light on the agency's performance of its statutory duties. Where, as here, there is a substantial privacy interest, the protections of Exemption 6 would apply if the materials reveal little or nothing as to the agency's actions. See Nation Magazine v. United States Customs Service, 71 F.3d 885, 894 (D.C. Cir. 1995). Nothing in the material withheld bears directly on the actions taken by the Legal Services Corporation.

We have carefully reviewed the records requested and, on balance, affirm our determination that, as to six of the pages requested, the records should be withheld in their entirety pursuant to 5 U.S.C. §552(b)(6) and 45 C.F.R. §1602.9(a)(5), to avoid unwarranted invasion of personal privacy. As to these records, redaction of personally identifying material would not adequately protect the privacy interests involved. However, as to three pages of records previously withheld, we have determined that release with personally identifying information redacted would be appropriate. These records are enclosed.

I hope this letter adequately responds to your request. However, if you remain dissatisfied, you have the right to seek judicial review of the partial denial of your request under FOIA, 5 U.S.C. §552(a)(4).

Yours truly,


Alexander D. Forger
President

Enclosures

D 95-1-0452B, PO
515037

December 30, 1995

Alex Froger
President,
Legal Services Corporation
750 First Street NE; 11th floor
Washington, D.C.

Dear Mr. Forger:

Back in May I submitted a complaint to you concerning the National Legal Center on behalf of

I would appreciate a report of your findings and the status of the National Legal Center.

Thank you.

96 JAN 16 P 1 : 15

RECEIVED OPEAR

Via Fax 767-8754

Senator Phil Gramm:

Last spring/early summer I filed a complaint (sent to
Ale Fryer President of Legal Service Corporation) about
the National Legal Center's intervention

I was told by the person who was heading
up the investigation that I'd get ~~of~~ updates
plus a report on their findings
of their investigation. More than ~~2~~
months ago I sent a letter to Mr. Fryer request
a report on what happened. The only
thing that I've received is a "big goose
egg" — total non response.

Please get me a copy of their findings
& what has happened.

Thanks for your help.

Aug 1, 1996

Fax

TO: Heather at Sen. Phil Gramm office
767-8757

From:

Heather -

Per our conversation earlier this week, please help. Legal Services Corp said in their April letter to me they would send me the final report concerning their investigation of National Legal Center. 4 months later I still don't have it.

Please send it to me at!

Thank you for your assistance.