

Frank Vera III



31 July 2013
BY Fax: 202-632-8925

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FOIA/Privacy Act Request

Dear Ms. Schmidt:

Please process this request pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a.

I am requesting an unredacted and complete copy and/or printout of the following *records*:

In 1990, I won the medical side of Compensation and Pension Exam (C&P exam) conducted at VA Bay Pines Medical Center with a diagnosis of “**probable radiation myocarditis.**”
(See: page 4)

Unfortunately, I lost the Compensation and Pension case with the Veterans Affairs because the *DOD/AF would neither confirm nor deny the presence of the radioactive material and/or my exposure* at George Air Force Base (AFB), CA in 1973. The St. Petersburg, FL VA Regional Office (RO) was handling the VA Disability Claim.

Could you please request that the VA, DOD, and AF release all the records generated by my 1990 C&P exam for radiation exposure?

In August, it will be 40 years since my exposure in 1973.

The requested *records* should include but not be limited to:

1. The correspondence between the VA Bay Pines Medical Center and St. Petersburg RO
2. The correspondence between the VA St. Petersburg RO and VA Central Office (VA CO)
3. The correspondence among the VA CO and DOD and/or AF
4. The correspondence among the VA CO and/or VA St. Petersburg RO and me, Frank Vera III

Definition of Record

The term “record” includes, *but is not limited to*: 1) all email communications to or from any individual within your agency; 2) memoranda; 3) inter-agency communications; 4) sound recordings; 5) tape recordings; 6) video or film recordings; 7) photographs; 8) notes; 9) notebooks; 10) indices; 11) jottings; 12) message slips; 13) letters or correspondence; 14) telexes; 15) telegrams; 16) facsimile transmissions; 17) statements; 18) policies; 19) manuals or binders; 20) books; 21) handbooks; 22) business records; 23) personnel records; 24) ledgers; 25) notices; 26) warnings; 27) affidavits; 28) declarations under penalty of perjury; 29) unsworn statements; 30) reports; 31) diaries; 32) calendars, regardless of whether they are handwritten, printed, typed, mechanically or electronically recorded or reproduced on any medium capable of conveying an image, such as paper, CDs, DVDs, or diskettes.

Record Search

When processing this request, please note that the D.C. Circuit has previously held that agencies have a duty to construe the subject material of FOIA requests *liberally* to ensure responsive records are not overlooked. *See Nation Magazine, Washington Bureau v. U.S. Customs Service*, 71 F.3d 885, 890 (D.C. Cir. 1995).

In line with the guidance issued by the Department of Justice (“DOJ”) on 9 September 2008 to all federal agencies with records subject to FOIA, agency records that are currently in the possession of a U.S. Government contractor for purposes of records management remain subject to FOIA. Please ensure that your search complies with this clarification on the effect of Section 9 of the OPEN Government Act of 2007 of the definition of a “record” for purposes of FOIA. In addition, the Air Force should not interpret this request to exclude correspondence sent to outside third parties. Please also consider this letter an affirmative rejection of any limitation of your search to Air Force originated records.

Exempt Records

If you assert that any of the requested records are exempt from mandatory disclosure under FOIA, I request that you disclose them nevertheless, as such disclosure would serve the public interest of educating citizens regarding the operations and activities of the Air Force regarding this matter.

If you deny all or part of this request, please cite the specific exemptions you believe justify your refusal to release the information or permit the review and notify me of your appeal procedures available under the law.

In addition, I would like to draw your attention to president Obama’s 21 January 2009 Memorandum for the Heads of Executive Departments and Agencies, directing federal agencies to adopt a presumption in favor of disclosure and stating that government information should not be kept confidential “merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears.”

Redaction

In excising material, please “black out” rather than “white out” or “cut out.” Additionally, any reasonably segregable portion of a responsive record must be provided to me after redaction of any allegedly exempt material, as the law requires. 5 U.S.C. § 552(b). I reserve the right to appeal any decision to withhold information.

Record Format

I request that any documents or records produced in response to this request be provided in electronic (soft-copy) form wherever possible. Acceptable formats are .pdf, .doc, docx, .jpg, .gif, .tif. Please provide soft-copy records by email or on a CD if email is not feasible.

I look forward to receiving the requested documents within twenty (20) business days.

If you wish to discuss this request, please do not hesitate to contact me at 209-984-5517.

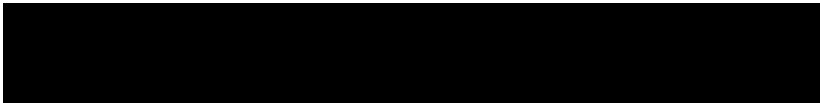
Thank you for processing this FOIA/Privacy Act request.

Sincerely,

Frank Vera III

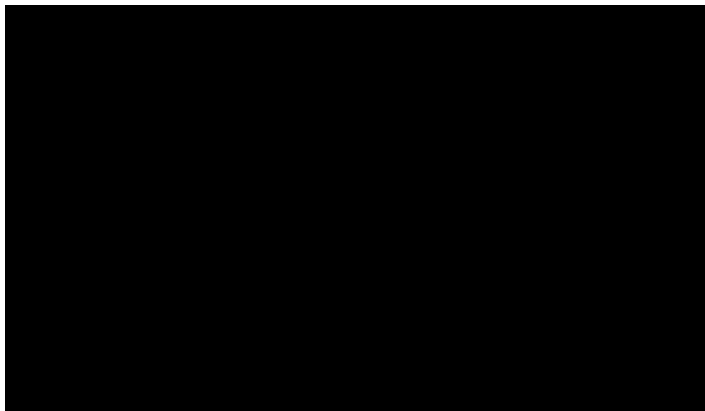
Physical address: 

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above (requester) and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. section 1001 by a fine of not more than \$10,000.00 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than \$5,000.00.



Frank Vera III

Date



**COMPENSATION AND PENSION EXAMINATION
CARDIOVASCULAR EXAMINATION**

DATE OF EXAMINATION: [REDACTED] 1990

HISTORY: This 37-year-old white male served in the Air Force for two years. He was discharged in 1974. The patient has had a questionable diagnosis of mitral valve prolapse. The echo studies that were done were evidently debatable as far as their results were concerned. These were done while he was in the service. He was also told that he had electrocardiogram abnormalities, but no cardiac enlargement. He has premature systoles, and these are both ventricular and supraventricular in origin. He also has a mild conduction defect.

PHYSICAL EXAM: Reveals that he is 6'4" and weighs 165. His blood pressure is 124/78 and his pulse is 74 and irregular. Examination of the heart reveals premature systoles. There is a very soft, late systolic mitral murmur, no mid-systolic click is heard, and no cardiomegaly is present.

DIAGNOSIS:

1. Prolapsed mitral valve, mild.
2. Cardiac dysrhythmia, chiefly premature ventricular systoles.
3. Probable radiation myocarditis.

TYPE OF REPORT (Check one) <input type="checkbox"/> HISTORY AND PHYSICAL EXAM (SF 504, 505, 505 or VAF 10-7978 a, b, d and e) <input type="checkbox"/> DISCHARGE SUMMARY (VAF 10-1000, a and b) <input type="checkbox"/> PROGRESS NOTE (SF 509) <input type="checkbox"/> AUTOPSY PROTOCOL (SF 503) <input type="checkbox"/> CONSULTATION SHEET (SF 513) <input type="checkbox"/> OTHER (Specify) <input type="checkbox"/> OPERATION REPORT (SF 516)		SIGNATURE OF PHYSICIAN/DENTIST BRUCE LEE, M.D.	
PATIENT'S NAME VERA III, FRANK		SOCIAL SECURITY NUMBER [REDACTED]	
VAMC Bay Pines, FL TLF415 #6576-04		DATE OF BIRTH [REDACTED]	
WARD/SERVICE [REDACTED]		DATE DICTATED [REDACTED] 90	
DATE TYPED [REDACTED] 90			

VA FORM 10-9034
AUG 1983

MEDICAL RECORD REPORT