



National Archives and Records Administration

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Date: September 29, 2009

Reply to: Office of Inspector General (OIG)

Subject: Management Letter #09-17, Failure to Provide Complete Information on Records Requests at the National Personnel Records Center (NPRC)

To: Adrienne Thomas, Acting Archivist (N)

The purpose of this management letter is to bring to your attention the fact that for all armed services except the United States Marine Corps (USMC), the NPRC routinely withholds records requested by veterans and their next of kin¹ without notifying the requester. This practice is done for the personnel records of military members who were discharged, retired, or died in service 62 years or less from the date of the request.² In general, when a veteran or their next of kin requests "all documents" in an Official Military Personnel File (OMPF), or complete medical records, the NPRC only provides selected records and does not inform the requester that the file contains more information than was disclosed. Partial responses are given because NPRC believes this meets the needs of most requesters without incurring the cost of processing complete copies of the records. In our opinion, providing partial responses without notifying the requester more documents exist serves to mislead veterans and other requesters and should be discontinued.

According to a senior NARA official it has been standard practice at the NPRC to always provide only selected records (or "key documents") in their initial response even when the veteran or their next of kin (NOK) requested the full record. Additionally, the NARA official reports that all of the armed services³ have been aware of, and have agreed to, this practice for at least thirty years. However, the Department of Defense, Defense Privacy Office (DPO) became aware of the practice and asked that it be stopped in November 2007, citing the Privacy Act's requirement to make available to the individual to whom the record pertains all of the personal information contained in the system of records unless an exemption has been claimed for the system. The NPRC responded with a letter including a cost estimate necessary to change this practice (and another practice not related to this Management Letter) in February of 2008. The DPO has not formally responded to NPRC's letter. In September of 2008 the Standard Form 180 used to request records was changed specifically to allow requesters to order "All documents in Official Military Personnel File (OMPF)."⁴ According to the Federal Register (Vol. 73, page 54633) this change was made "so they don't have to request it more than once." However, despite the change and with the exception of USMC files, standard practice at NPRC continues to be that the complete OMPF is not given to veterans and their NOK even when all documents are initially requested, and complete files are provided only if the requester submits a second request. According to senior NARA and NPRC officials, they believe this practice provides the veterans and their NOK with the vast majority of the information which these requesters need without incurring the expense of providing a complete file every time one is requested.

¹ This management letter does not address requests by the Department of Veterans Affairs, which the NPRC processes differently.

² After 62 years from the members discharge, retirement, or death in service the records are accessioned into NARA's archival holdings and NPRC officials report that NARA owned archival holdings are released in full when requested.

³ Because these records are owned by the armed services, the armed services are actually the paying "customers" of the NPRC.

⁴ Please see Attachment 1, Standard Form 180, revised September 2008.

Compounding this situation, veterans and NOK are not informed when they have been given incomplete records. According to NPRC, the standard language in NPRC's response does not mention that some records are being withheld.⁵ That begs the question: if the veteran or NOK does not know NPRC's response is incomplete, how would they know to ask for "all documents" a second time? This situation is misleading to veterans and their NOK, and essentially shifts the burden of an accurate and appropriate response from NARA to the requester. Whether or not NPRC has received many complaints or second requests for full files is inconsequential. When veterans and their NOK request "all documents" they likely believe that is what they are receiving when NPRC responds, and are left to believe the records they are entitled to simply do not exist.

A similar problem exists with requests for medical records on the SF 180. Once again, USMC requesters receive a complete medical file, but all other services receive only selected documents and are not informed they are receiving an incomplete file.⁶ Further, the SF 180 check-box for "Medical Records" as currently worded can mislead requesters. The check-box states: "Medical Records (Includes Service Treatment Records (outpatient), inpatient and dental records.) If hospitalized, provide facility name and date for each admission:"⁷ What the form makes no mention of is that if specific facility names and dates are not included for any hospitalization or inpatient treatments, then inpatient records are never even searched for and are not provided. In general, inpatient, or "clinical," records are stored differently than OMPFs and cannot simply be searched for based on the veteran's personal data. Veterans may need these records but be unaware they must provide specific information on treatment locations and dates before NARA will search for them, even though their SF 180 request included "inpatient" records. NPRC guidance states the following (emphasis in the original):

Seldom does a veteran know to ask for a "clinical" record. Because few veterans make a distinction between 'inpatient' and 'outpatient' records, and because few know that clinical records and health records are retired separately to NPRC, the veteran often asks only for medical records. Do not make a clinical search in response to every request for medical records.

However, if a requester asks for records of surgery or treatment for a serious illness or injury (e.g. hepatitis, broken back, etc.), or if veteran says he was wounded in action or involved in an auto accident, or if a veteran writes a second time for his/her medical records and says "you didn't send me all my records," **THINK CLINICAL RECORD(S)**.

Thus, NPRC technicians are instructed to look for clinical records only in certain situations despite the plain language of the SF 180 (and the EVetRecs process described below). When those who answered our nation's call to arms ask for their medical records, they should be able to do so in an open and common sense manner without having to learn new terminology or make multiple requests. At the least these veterans and their NOK deserve clear and conspicuous notice whenever any part of their medical files are not provided, and be given clear instructions on exactly what types of files are available and how to request them.

Apart from these problems responding to SF 180s, there are also issues in this regard with NARA's online requesting system, EVetRecs, at <http://www.archives.gov/veterans/evetrecs/>. The EVetRecs system generally works by clicking an option from a drop-down menu. The types of records provided are generally determined by the drop-down options for the "Purpose of Request." However, none of these options allows for requesting a complete OMPF. In fact, the majority of the options, including "Personal Military History," "Geneology," and "Decline to Disclose" automatically limit the request to separation documents. In these

⁵ Please see Attachment 2, NPRC form letter language for responding to OMPF requests.

⁶ Please see Attachment 3, NPRC form letter language for responding to medical record requests.

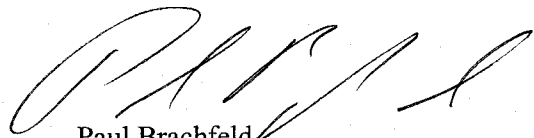
⁷ Please see Attachment 1, Standard Form 180, revised September 2008.

instances the system does tell the requester "If you require documents other than a Report of Separation, please indicate in the 'Comments' section in Step 3 the specific documents or information you need." Step 3 of the system does have a "Comments" section, and beneath the section it states "If information or documents other than a Report of Separation are needed, please indicate here what you require." NPRC officials stated that if the requester typed "copy of record" or "complete copy of record" then the request would be processed in the same manner as if the "all documents" box had been checked on a SF 180. Thus the requester would still not be given the complete record, and would not be told that some documents were withheld.

Moreover, the drop-down menu for making medical record requests via EVetRecs forces the requestor to choose between "Outpatient Treatment Records," "Inpatient Treatment Records," and "Mental Health Clinic Records." There is no option to request multiple categories. Further, for each category chosen from the drop down menu the system limits the records provided, and there is no function to request the full and complete medical record. While the system allows users to type specific requests in the "Comments" section of Step 3, NARA officials stated that if the requester typed in "medical record" in the "Comments" section, then most technicians would interpret that in a way so the requester would not get all of the documents in the medical record. While this may be practical, the fact that the requester is never told they are not given the full record makes this practice inappropriate.

We bring this to your attention because we believe it to be imperative that this issue be resolved promptly in order for NARA to properly serve requesters. Veterans and their NOK sacrificed for the safety and security of our nation. They deserve unencumbered access to all the records they are entitled to; and the current process where they are not openly told records are being withheld and given clear direction on how to obtain them is unacceptable. Whereas most of these military records are owned by the military services, we plan to discuss these issues with the Offices of Inspectors General at the Department of Defense and the Department of Veterans Affairs.

We look forward to your prompt response specific to the issues defined in this management letter. We have been informed, that as a result of a draft version of this management letter, some actions are now being taken to inform veterans whenever records are being withheld. In your response, please include details on the new notifications, and how NARA plans to address pending, future and past requests from veterans and their NOK. Should you have any questions, please contact me at (301) 837-1532.



Paul Brachfeld
Inspector General

Attachments:

1. Standard Form 180, revised 09/08, 1 page
2. NPRC form letter language for responding to OMPF requests, 1 page
3. NPRC form letter language for responding to medical record requests, 1 page

cc: NGC (G. Stern)
NR (T. Mills)