

## FREEDOM OF INFORMATION ACT

### Release of Senior Officer Mentor Program Files

You have asked whether records related to the “MyVector” mentoring program (or any similar mentoring program) would be releasable if requested under the Freedom of Information Act (FOIA), 5 USC § 552. While it is unlikely that the Air Force could withhold records showing that senior Air Force officials (general officers, SES employees, etc) were generally involved in mentoring junior employees, specific personal information concerning the mentoring of the junior employee would likely be withheld under FOIA exemption (b)(6).

Under the FOIA, requested records must be released unless the Agency can withhold the information under one of nine FOIA exemptions or an exception to the FOIA. *See* 5 U.S.C. § 552(b); DoD 5400.7-R\_AFMAN 33-302, *Freedom of Information Act Program*. With respect to MyVector program mentorship records, FOIA exemption (b)(6) would enable the Air Force to prevent the release of personal information of individuals choosing to participate in the program, unless the appropriate public interest outweighed the privacy interest of the affected individuals.

FOIA exemption (b)(6), 5 U.S.C. § 552(b)(6), requires an Agency to withhold personal information of individuals contained in AF records after conducting a balancing test to determine whether the public interest in the information outweighs the privacy interest of the individual. Specifically, the balancing test weighs the privacy interests of individuals named in a document against the general public interest in disclosure. The public interest in disclosure is one that will “shed light on an agency’s performance of its statutory duties.” *Dep’t of Justice v. Reporters Committee*, 489 U.S. 749, 773 (1989). All facts and circumstances concerning the reasonable privacy expectation of individuals whose personal information is requested is considered in applying the balancing test, to include the individual’s seniority/rank, Air Force duties, etc. Generally, but certainly not always, current DoD employees (O-6/civilian equivalent and below) usually have a privacy interest in protecting their names, phone numbers, e-mail addresses, home addresses and similar personal information from disclosure under the FOIA. *See* DoD 5400.7-R\_AFMAN 33-302. On balance, such information, in and of itself, does not shed any light on the way the Air Force mission is carried out or how the Air Force performs its statutory and regulatory functions.

Most “personnel/personal type” AF records are withheld, at least in part, from required public disclosure under FOIA exemption (b)(6), because, although the individual FOIA requester may have a lot of interest in the requested record, the general public does not. However, the balancing test can sometimes shift a release determination based on particular facts and circumstances. If there is a significant claim/event which created a strong public interest in the release of the documents, the balancing test could require release of more information. For example, there may be information in a particular MyVector program record that discusses or describes specific official misconduct, or contains information of particular high public interest at the time the request is made. In such cases, relevant information might be required to be released under the FOIA if it is determined the public interest outweighs the privacy interests of the individuals involved.

But, in the normal situation, only the name of a “senior official” mentor (general officer or civilian equivalent), and demographic information that does not otherwise reveal personal identifying information of the mentee would be releasable, such as geographical location and ranks of personnel being mentored.

## **CONCLUSION**

A third party FOIA request for documents associated with the mentoring of an AF civilian employee or military member would likely result in the denial of specific personal information concerning the mentee or mentor (other than a senior official’s participation in the program as a mentor). The denial would include any mentor and mentee written feedbacks/exchanges conducted within the program (e.g., via e-mail or other channels of communication) under FOIA exemption (b)(6). However, the release of general demographic information concerning the mentor program, which otherwise would not violate the appropriate privacy interests of the mentor and mentee, or that could not be withheld under another FOIA exemption, would be releasable.

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