

**United States Department of Energy
Office of Hearings and Appeals**

In the Matter of Patsy Cornwell Sherriff)
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Filing Date: May 31, 2012) Case No.: FIA-12-0032
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Issued: July 3, 2012

Decision and Order

This Decision concerns an Appeal that Patsy Cornwell Sherriff filed in response to a determination that the Department of Energy's (DOE) Oak Ridge Office (ORO) issued to her. In that determination, ORO replied to a request for documents that Ms. Sherriff submitted under the Freedom of Information Act, 5 U.S.C. § 552, as implemented by the DOE in 10 C.F.R. Part 1004. This Appeal, if granted, would require that the DOE conduct another search for responsive documents.¹

In her FOIA request, Ms. Sherriff sought access to all medical records, absentee records, hospital reports, dosimetry badge readings, hazardous chemical readings, and radiation exposure records for her grandfather, William D. Goldsby, who was employed at the Paducah Gaseous Diffusion Plant in Paducah, Kentucky from 1953 until his death in 1954.² She also requested information

1/ Decisions issued by the Office of Hearings and Appeals (OHA) are available on the OHA website located at <http://www.oha.doe.gov>. The text of a cited decision may be accessed by entering the case number of the decision in the search engine located at <http://www.oha.doe.gov/search.htm>.

2/ Ms. Sherriff also filed a similar request for documents relating to her father, Raleigh Cornwell, who also worked at the Paducah Plant. Although ORO processed the two requests separately, Ms. Sherriff's Appeal attempts to combine the two cases, as she is also requesting that documents relating to her father be located and released. For purposes of administrative
(continued...)

concerning Mr. Goldsby's former employers. In response to this request, ORO released several documents that contained information concerning Mr. Goldsby's former employers. However, ORO was unable to locate any medical or hazardous material exposure information regarding Mr. Goldsby. In her Appeal, Ms. Sherriff challenges the adequacy of the search that was performed.

We have stated on numerous occasions that a FOIA request deserves a thorough and conscientious search for responsive documents, and we have not hesitated to remand a case where it is evident that the search conducted was in fact inadequate. *See, e.g., Mark D. Siciliano*, Case No. FIA-12-0019 (2012); *Glen Bowers*, Case No. TFA-0138 (2006). The FOIA, however, requires that a search be reasonable, not exhaustive. "[T]he standard of reasonableness which we apply to agency search procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought materials." *Miller v. Dept. of State*, 779 F.2d 1378, 1384-85 (8th Cir. 1985) (*Miller*); *accord, Weisberg v. Dept. of Justice*, 745 F.2d 1476, 1485 (D.C. Cir. 1984). In cases such as these, "[t]he issue is not whether any further documents might conceivably exist but rather whether the government's search for responsive documents was adequate." *Perry v. Block*, 684 F.2d 121, 128 (D.C. Cir. 1982).

In order to obtain further information concerning the scope of the search that was performed, we contacted ORO. We were informed that Ms. Sherriff's request was referred to (i) the Oak Ridge Associated Universities, which operates a research hospital and the Oak Ridge Institute of Nuclear Studies, and which maintains records relating to beryllium exposure, (ii) the ORO's records holding area, and (iii) the Paducah Gaseous Diffusion Plant. No medical or exposure records were located at these sites. However, ORO informed us that after reviewing Ms. Sherriff's Appeal, it had determined that an additional location at which responsive documents might be located had not been searched: the repository at which records from the former K-25 plant are being stored in Knoxville, Tennessee. Accordingly, we will remand this matter to ORO so that a search of the K-25 records repository can be performed. Upon completion of this search, ORO should issue a new determination to Ms. Sherriff setting forth the results of the new search.³

2/ (...continued)
efficiency, it would be inappropriate for the OHA to consider Appeals concerning separate FOIA requests under the same case number. Moreover, it is unclear whether ORO has issued a final determination regarding this second request. Therefore, this Decision considers only the determination that was issued to Ms. Sherriff regarding her request for records concerning her grandfather, William D. Goldsby, request number ORO-2012-00884-F.

3/ ORO has also informed us that it will search the K-25 records repository for documents relating to Ms. Sherriff's father, Raleigh L. Cornwell. She is, of course, free to file new FOIA Appeals if the results of these searches are not satisfactory.

It Is Therefore Ordered That:

(1) The Freedom of Information Act Appeal filed by Patsy Cornwell Sherriff, OHA Case Number FIA-12-0032, is hereby granted as set forth in paragraph (2) below.

(2) This matter is hereby remanded to the Oak Ridge Office for additional proceedings consistent with the directions set forth in this Decision.

(3) This is a final order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to 5 U.S.C. § 552(a)(4)(B). Judicial review may be sought in the district in which the requester resides or has a principal place of business, or in which the agency records are situated, or in the District of Columbia.

Poli A. Marmolejos
Director
Office of Hearings and Appeals

Date: July 3, 2012