

The National Security Archive

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13 July 2006

Mr. James Hogan
Chief, Appeals
Policy and Litigation Branch
Office of Freedom of Information
1155 Defense Pentagon
Washington, DC 20301-1155

Re: OSD Ref: 99-F-0680
USAF Ref: 95-1086

Dear Mr. Hogan :

This is an appeal under the Freedom of Information Act. Through a recent letter, your agency released an excised version of the RAND Corporation Memorandum (RM-4015-ISA): "The French Nuclear Weapons Program: A Reappraisal" by Arnold Karmish and James R. Schlesinger, August 1964. I ask for further review of this document to determine whether portions, or perhaps all, of the exempt information may be released without harm to national defense or foreign relations.

I also ask the Department to take into account previously declassified information concerning U.S. Intelligence assessments of the French nuclear weapons program in the late-1950s and 1960s which may be relevant to further review of this document. With this, I enclose a number of declassified documents from U.S. intelligence agencies that report on French nuclear weapons production, nuclear weapons delivery systems, etc. during the late 1950s and early 1960s (see enclosure 1, 2, 3, 4). As you will note, the reports include considerable declassified detail on the French nuclear weapons production program. The enclosed documents, or at least very similar documents, could have been referenced in the excised footnotes in the RAND memorandum. In light of the declassification of formerly sensitive Intelligence information on the French nuclear weapons program, the release of more details from this document can be released without harm to national security.

Sincerely,

(b)(6)

William Burr



**DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

OSD Ref: 99-F-0680

USAF Ref: 95-1086

Mr. William Burr
The National Security Archive
Gelman Library, Suite 701
2130 H Street, N.W.
Washington, DC 20037

Dear Mr. Burr:

This responds to your Freedom of Information Act (FOIA) request dated May 30, 1995, Archive # 950784AIR011, to the United States Department of the Air Force (USAF), for the August 1964 RAND study entitled "The French Nuclear Weapons Program: A Reappraisal." By letter dated January 25, 1999, the USAF referred your request and one responsive document to this Office for review and direct response to you. I apologize for the delay of this response, which was caused by the need to consult with other Department of Defense components and other federal agencies.

The enclosed 99-page document, redacted in part, is provided as responsive to your request. The United States Department of the Air Force, the Department of Energy (DOE), the Defense Threat Reduction Agency (DTRA), the Central Intelligence Agency (CIA), and the Office of International Security Policy have determined that the deleted information in the enclosed document is exempt from release because it is currently and properly classified in accordance with Executive Order 12958, as amended, pursuant to the following sections: Section 1.4 (c) concerning intelligence activities (including special activities), intelligence sources or methods, or cryptology; Section 1.4 (d) concerning foreign relations or foreign activities of the United States, including confidential sources; 1.4 (e) concerning scientific, technological, or economic matters relating to the national security, which includes defense against transnational terrorism; and Section 1.4 (h) concerning weapons of mass destruction. The denied information is also exempt from automatic declassification in accordance with Section 3.3 (1), which pertains to information that could reveal the identity of a confidential human source, or a human intelligence source, or reveal information about the application of an intelligence source or method; Section 3.3 (2), which pertains to information that would assist in the development or use of weapons of mass destruction; Section 3.3 (6), which pertains to information, including foreign government information, that would seriously and

demonstrably impair relations between the United States and a foreign government, or seriously and demonstrably undermine ongoing diplomatic activities of the United States; and Section 3.3 (9), which pertains to information that could violate a statute, treaty, or international agreement. It has also been determined that certain information is exempt from release pursuant to 5 U.S.C. § 552(b)(3), which pertains to information exempted from release by statute, in this instance, 42 U.S.C. § 2162(a), which provides for withholding Restricted Data under the Atomic Energy Act of 1954, and 50 U.S.C. § 403(g) Section 6 of the CIA Act of 1949, which provides for the withholding of CIA functions and information. Accordingly, this information is denied pursuant to 5 U.S.C. §§ 552 (b)(1) and (b)(3). Additional information provided by the Department of Energy regarding their withholdings has also been included at their request (see document labeled "Enclosure 2").

If you are not satisfied with this action, you may submit an administrative appeal to James Hogan, Chief, Policy, Appeals and Litigation Branch at the above address. Your appeal should be postmarked within sixty days of date of this letter, should cite to case number 99-F-0680, and should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

(b)(6)

Will Kämmer
Chief

Enclosure:
As stated

THE NATIONAL SECURITY ARCHIVE

GELMAN LIBRARY, SUITE 701, 2130 H STREET, N.W., WASHINGTON, D.C. 20037 (202) 994-7000

IN ALL CORRESPONDENCE PLEASE REFER
TO ARCHIVE FILE NO. 750784AIR011

30 May 1995

Secretary of the Air Force
11 MSS/MSID
226 Duncan Ave Suite 125
Bolling AFB, D.C. 20332-0001

99-F-0680

Dear Sir or Madam:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. Section 552, et seq. (as amended), I hereby request disclosure of the documents described on the attached page of this letter for inspection and possible copying. If you regard any of these documents as potentially exempt from the FOIA's disclosure requirements, I request that you nonetheless exercise your discretion to disclose them. As the FOIA requires, please release all reasonably segregable nonexempt portions of documents which contain information you regard as exempt. To permit me to reach an intelligent and informed decision whether or not to file an administrative appeal of any denied material, please describe any withheld records (or portions thereof) and explain the basis for your exemption claims.

This request is made on behalf of the National Security Archive, a nonprofit public interest research institute and library in Washington, D.C. The Archive is a tax-exempt nonprofit organization whose purpose is to enrich public policy debate by making widely available records on important areas of major public concern on foreign, defense and intelligence policy. Documents obtained by the Archive, including the records requested in this letter, are carefully analyzed, indexed, organized into collections and published. Archive document collections are also available for inspection and copying at the Archive by scholars, journalists, members of Congress and their staffs, present and former public officials, other public interest organizations, and the general public. Information in these documents is disseminated across the country through distribution of our published collections to research libraries and through the Archive's other publishing and media activities. I am conducting research on the subject of this request as part of an Archive research team which includes experts on the subject and which already has done extensive research and determined that the requested materials are necessary to our project.

Please also waive all fees in connection with this request. In National Security Archive v. U.S. Department of Defense, 880 F.2d 1381 (D.C. Cir. 1989), cert. denied, 110 S.Ct. 1478 (1990), the Archive was declared entitled to a waiver of all search and review fees under the FOIA as a "representative of the news media." This request also qualifies for a waiver of duplication fees because disclosure of the information in the requested documents is in the public interest since release to us of these records, which directly relate to the formation of U.S. policy on the subject, is likely to contribute significantly to greater public understanding of the operations or activities of the government in making that policy. Should you decline to waive or reduce all duplication fees, we are prepared to pay normal reproduction costs if I decide to copy the records produced, but please describe your specific reasons in writing and notify us before incurring costs over \$100.

To expedite the release of the requested documents, please disclose them on an interim basis as they become available to you, without waiting until all the documents have been processed. If you have any questions regarding the identity of the records, their location, the scope of the request or any other matters, please call me at (202) 994-7000. I look forward to receiving your response within the ten-day statutory time period.

Sincerely,

(b)(6)

Arch 7

FOIA Requester: Barr, William

FOIA Sequence Number: 950704AIR011

Date of Request: 05/30/1995

NSA Record Number: 14629

Subject of Request:

A copy of a RAND corporation study entitled "The French Nuclear Weapons Program: A Reappraisal," published August 1964.

Note: I request that all documents be reviewed in their entirety, and that no information be omitted on the grounds of "non-relevance".

95-1086

Class
Cat 1

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FRANKFURT

COLOGNE

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BEIJING

August 24, 2006

VIA FED EX

James Hogan
Chief of Policy, Appeals, and Litigation
Branch
DOD Office of Information
1155 Defense Pentagon
Washington, D.C. 20301-1400

Re: USCENTCOM FOIA #06-128

Dear Mr. Hogan

This letter constitutes an appeal under 5 U.S.C. § 552(a)(6) of the Freedom of Information Act ("FOIA") of United States Central Command's ("CENTCOM") no record response to the FOIA request of Mr. Zakirjan Hassam ("Mr. Hassam")¹ and Cleary Gottlieb Steen & Hamilton LLP ("Cleary Gottlieb").

L Background

By letter dated April 27, 2006, Mr. Hassam, who is presently detained at the U.S. Naval Base at Guantánamo Bay, Cuba ("Guantánamo"), and Cleary Gottlieb requested certain information from CENTCOM pursuant to FOIA (the "FOIA Request") (Attachment A).² The FOIA Request sought expedited processing due to "imminent loss of substantial due process rights and humanitarian need," see 32 C.F.R. § 286.4(d)(3)(iv), and requested production of six categories of documents:

1. All records concerning the circumstances under which Mr. Hassam first came to be in the custody of U.S. forces or their agents;

¹ The United States military has assigned the identification number "ISN 672" to Mr. Hassam.

² The FOIA Request was also sent to United States Southern Command and the Department of Defense Office of Freedom of Information and Security Review.

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August 24, 2006
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2. All records concerning the decision by U.S. forces or their agents to transfer Mr. Hassam from Afghanistan to the U.S. Naval Base at Guantánamo Bay, Cuba;
3. All records concerning Mr. Hassam's detention and interrogation by U.S. forces and/or their agents at (1) the U.S. Naval Base at Guantánamo Bay, Cuba, (2) Bagram Airfield, Afghanistan, (3) Kandahar Airfield, Afghanistan, and/or (4) any other facilities or locations in which Mr. Hassam has been detained, imprisoned or confined while in custody of U.S. forces or their agents;
4. All records concerning Mr. Hassam's Combatant Status Review Tribunal ("CSRT") process, including, without limitation, any records reviewed in connection with, or referenced in, any CSRT proceedings concerning Mr. Hassam;
5. All records concerning Mr. Hassam's entire medical history, including, without limitation, any treatments, surgeries, exam results, diagnoses and drug information, during his detention at (1) the U.S. Naval Base at Guantánamo Bay, Cuba, (2) Bagram Airfield, Afghanistan, (3) Kandahar Airfield, Afghanistan, and/or (4) any other facilities or locations in which Mr. Hassam has been detained, imprisoned or confined while in custody of U.S. forces or their agents; and
6. All documents concerning Mr. Hassam not otherwise responsive to the above-enumerated requests.

CENTCOM received the FOIA Request on April 28, 2006. See Attachment B. By letter dated May 5, 2006, CENTCOM confirmed receipt of the FOIA Request and granted expedited processing. See Attachment C.

On May 11, 2006, Cleary Gottlieb sent correspondence to CENTCOM relating its understanding that CENTCOM's grant of expedited processing applied to all six categories of information identified in the FOIA Request, even though CENTCOM's May 5 letter referenced only one of the six categories. See Attachment D. By voicemail of May 12, 2006, CENTCOM stated that it had granted expedited processing with respect to records in possession of CENTCOM but was not in a position to produce responsive information maintained by United States Southern Command. See Attachment E. By letter dated May 19, 2006, Cleary Gottlieb reiterated its understanding that CENTCOM's grant of expedited processing applied to all six categories of documents identified in the FOIA Request. See Attachment E.

CENTCOM informed Cleary Gottlieb by voicemail on May 22, 2006, that upon further review of the FOIA Request it had concluded that it did not have the authority to grant expedited processing because the information requested fell under the purview of United States Army Forces Central Command ("ARCENT"). See Attachment F. CENTCOM further stated

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that it would forward the FOIA Request to ARCENT, which would in turn respond to the FOIA Request. Id.

By letter dated June 26, 2006, CENTCOM stated it had conducted a search that encompassed "only those documents in existence within the control of [CENTCOM and its subordinate commands." See Attachment G. CENTCOM asserted that "despite [its] extensive and exhaustive search, [it was] unable to locate responsive documents." Id. Finally, CENTCOM provided that an appeal of this finding could be made within 60 calendar days if the "no record response" was deemed to be a denial. Id.

No communications or correspondence has ever been received from ARCENT. It is not clear from the June 26 letter whether the FOIA Request was ultimately granted expedited processing or whether ARCENT was involved in the search in any capacity.

II. Basis For Appeal

Department of Defense regulations provide for appeals: (i) from "no record determinations when the requester considers such responses adverse in nature"; (ii) for "review on an expedited basis a determination not to grant expedited access to agency records," and (iii) for "any determination found to be adverse in nature by the requester." 32 C.F.R. § 286.24(a) (emphasis in original).

Mr. Hassam and Cleary Gottlieb consider CENTCOM's "no record" response to be adverse in nature and challenge the adequacy of the search conducted by CENTCOM and its subordinate commands in response to the FOIA request. Mr. Hassam and Cleary Gottlieb also challenge CENTCOM's denial, and ARCENT's constructive denial, of expedited processing for the FOIA request.

A. Mr. Hassam And Cleary Gottlieb Have Demonstrated A Compelling Need For The Requested Records And For Expedited Processing Of The FOIA Request

As stated in the FOIA Request and accompanying Declaration of Christopher Moore in Support of Request for Expedited Processing, on information and belief, Mr. Hassam has suffered and will continue to suffer loss of substantial due process rights, and the requested documents are necessary to help alleviate ongoing humanitarian violations. See Attachment A; 32 C.F.R. § 286.4(d)(3)(iv) (providing that FOIA requests demonstrating "imminent loss of substantial due process rights and humanitarian need" merit expedited processing).

The U.S. government determined over one year ago that Mr. Hassam is not an enemy combatant, yet he nevertheless remains imprisoned at Guantánamo. Mr. Hassam has now been detained and interrogated by the U.S. military for more than four years with extremely limited access to counsel and without any legitimate legal process. See Attachment A.

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Mr. Hassam was seized by U.S. forces in Northern Afghanistan in 2002 and subsequently detained at both Bagram Airfield, Afghanistan, and Kandahar Airfield, Afghanistan, prior to being transferred to Guantánamo. On information and belief, Mr. Hassam was physically and/or mentally abused by U.S. forces and/or their agents while detained at Bagram Airfield, Kandahar Airfield and Guantánamo. On information and belief, Mr. Hassam has been the subject of extensive medical interventions (mostly involuntary), while in the custody of U.S. forces, including at least one surgery and the administration of various medications. Id.

Information relating to Mr. Hassam's capture, conditions of detention and medical treatment are necessary to assist with ongoing efforts to secure Mr. Hassam's release from Guantánamo and locate a suitable country for resettlement.

Mr. Hassam and Cleary Gottlieb have clearly satisfied the "imminent loss of substantial due process rights and humanitarian need" standard set forth in 32 C.F.R. § 186.4(d)(3)(iv). The FOIA Request is therefore entitled to expedited processing.

B. Based On Its Area Of Responsibility, CENTCOM Holds Records Relating To Mr. Hassam's Capture, Conditions of Detention and Medical Treatment In Afghanistan

Afghanistan falls explicitly with CENTCOM's Area of Responsibility. See <http://www.centcom.mil/sites/uscentcom1/Shared%20Documents/CENTCOM%20FAQ.htm> (last checked August 24, 2006). CENTCOM has been in command of U.S. and Coalition forces operating in Afghanistan as part of Operation Enduring Freedom since October 2001. Hearing Before the S. Armed Servs. Comm., 107th Cong. 1-3 (February 7, 2002) (statement of Gen. Tommy R. Franks, Commander, U.S. Cent. Command). As of July 31, 2002, U.S. and Coalition forces screened more than 7,500 detainees in Afghanistan and conducted more than 3,500 interrogations on 2,200 individuals, leading to the detention of more than 500 individuals at Guantánamo. Hearing Before the Senate Armed Services Committee to receive testimony on Operation Enduring Freedom, 107th Cong. 9 (July 31, 2002) (statement of Gen. Tommy R. Franks, Commander, U.S. Cent. Command). In addition, according to Gen. Tommy R. Franks, CENTCOM has screened more than 16,000 documents and added 12,000 documents to a database concerning those individuals. Id.

In approximately June 2002, the XVIII Airborne Corps was designated as Combined Joint Task Force-180 and assumed command responsibility for military functions in Afghanistan. Id. at 6. Combined Joint Task Force-180 was a subordinate command of CENTCOM. U.S. Cent. Command News Release, Combined Joint Task Force Headquarters (May 14, 2002) (available at <http://www.centcom.mil/sites/uscentcom1/Lists/Press%20Releases/DispForm.aspx?ID=31>) (last checked August 24, 2006).

United States and coalition forces currently deployed in Afghanistan as part of Operation Enduring Freedom are commanded by Combined Forces Command-Afghanistan, a

James Hogan
August 24, 2006
Page 5

subcomponent command of CENTCOM. Hearing Before the S. Armed Servs. Comm. to receive testimony from combatant commanders on their military strategy and operational requirements in review of the Defense Authorization Request for Fiscal Year 2007 and the Future Years Defense Program, 109th Cong. 1, 22-23 (March 16, 2006) (statement of Gen. John P. Abizaid, U.S. Army Commander, U.S. Cent. Command). Combat operations throughout Afghanistan are now directed by Combined Joint Task Force-76, a division-level subordinate command of CENTCOM. Id. at 23.

CENTCOM and/or one of its subordinate commands thus necessarily possesses records relating to Mr. Hassam's capture, detention and medical treatment at Bagram Airfield and Kandahar Airfield, and possibly other locations in Afghanistan. Records relating to Mr. Hassam's transfer from Afghanistan to Guantánamo may also be in the possession of CENTCOM or one of its subordinate commands.

C. CENTCOM's Explanation Of The Search Conducted In Response To The FOIA Request Is Inadequate

CENTCOM's June 26 letter states that its search for records responsive to the FOIA Request encompassed an "extensive and exhaustive search" of documents within the control of CENTCOM and its subordinate commands. This response is inadequate.

The established standard for the adequacy of an agency's search efforts in response to a FOIA request is "reasonableness." Krikorian v. Dep't of State, 984 F.2d 461, 468 (D.C. Cir. 1993); see also Truitt v. Dep't of State, 897 F.2d 540, 542 (D.C. Cir. 1990) ("adequacy of an agency's search is measured by a 'standard of reasonableness,' and is 'dependent upon the circumstances of the case'" (citations omitted). "It is elementary that an agency responding to a FOIA request must 'conduct[] a search reasonably calculated to uncover all relevant documents,' and, if challenged, must demonstrate 'beyond material doubt' that the search was reasonable." Truitt at 542 (citations omitted).

CENTCOM has provided no information supporting its conclusory statement that it conducted an adequate search. Rather, it merely states that CENTCOM and its subordinate commands conducted an "extensive and exhaustive search," without describing any details concerning that search or identifying any of the subordinate commands that purportedly participated in that search. See Attachment G. In order to demonstrate whether the search conducted by CENTCOM was adequate, CENTCOM was required, at a minimum, to identify: (i) any and all subordinate commands that purportedly conducted searches in response to the FOIA Request; (ii) any and all files that were searched in response to the FOIA Request; (iii) the persons who conducted any such searches; and (iv) the procedures employed during any such searches. See Weisberg v. Dep't of Justice, 627 F.2d 365, 371 (D.C. Cir. 1980). It failed to do so. See id. (descriptions of search should provide information specific enough to enable a challenge, if necessary, to the procedures utilized).

James Hogan
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III. Request For Relief

For the foregoing reasons, we respectfully appeal CENTCOM's "no record" response, and request that CENTCOM be required to 1) conduct an adequate search for the records requested in the FOIA Request and 2) identify the procedures utilized in conducting that search, including but not limited to the subordinate commands and/or individuals involved in such search and the files and/or data bases that were searched.

In addition, for the foregoing reasons, we respectfully appeal CENTCOM's denial, and ARCENT's constructive denial, of expedited processing of the FOIA Request.

Please direct all future written responses to my attention at:

Christopher P. Moore
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, NY 10006
Facsimile: (212) 225-3999

If you need to reach someone by telephone about the FOIA Request or this administrative appeal, please call me at (b)(6) or my colleague, (b)(6) at (b)(6)

As required under FOIA and the Department of Defense implementing regulations, a reply to this appeal is required within 20 working days. 5 U.S.C. § 552(a)(6)(A)(ii); 32 C.F.R. § 286.24(c)(2).

Sincerely,

(b)(6)

Christopher P. Moore

Attachments

CLEARY GOTTLIB STEEN & HAMILTON LLP

WASHINGTON, DC

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April 27, 2006

Office of Freedom of Information and Security Review
1155 Defense Pentagon
Washington, DC 20301-1155

U.S. Southern Command
SCJ1-A (FOIA)
3511 NW, 91st Avenue
Miami, FL 33172-1217

U.S. Central Command
CCJ6-DM (FOIA)
7115 South Boundary Blvd
MacDill AFB, FL 33621-5510

Re: Freedom of Information Act Request

Dear Sir or Madam:

This letter constitutes a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 *et seq.*, and corresponding regulations. This request is submitted by Cleary Gottlieb Steen & Hamilton LLP ("Cleary Gottlieb"), and on behalf of our client Zakirjan Hassam (ISN 672) ("Mr. Hassam"), who is presently detained at the U.S. Naval Base at Guantánamo Bay, Cuba.

Received

MAY 1 2006

RECEIVED FOIA
Case # 06-128

Freedom of Information Act Request

April 27, 2006

Page 2

I. Records Sought

Recently released documents indicate that Mr. Hassam is identified by the Department of Defense as "Zakirjan Asam." See List of detainees who went through complete CSRT process, released April 19, 2006 (available at http://www.defenselink.mil/pubs/foi/detainees/detainee_list.pdf). Cleary Gottlieb therefore requests the following six categories of documents concerning, relating or pertaining to "Zakirjan Hassam," "Zakirjan Asam," "ISN 672," or any other identifier by which Mr. Hassam has been designated by the Department of Defense or any other agency:

1. All records¹ concerning² the circumstances under which Mr. Hassam first came to be in the custody of U.S. forces or their agents. On information and belief, Mr. Hassam was sold to U.S. forces in Afghanistan for \$5,000.00 in or about Spring 2002.
2. All records concerning the decision by U.S. forces or their agents to transfer Mr. Hassam from Afghanistan to the U.S. Naval Base at Guantánamo Bay, Cuba.
3. All records concerning Mr. Hassam's detention and interrogation by U.S. forces and/or their agents at (1) the U.S. Naval Base at Guantánamo Bay, Cuba, (2) Bagram Airfield, Afghanistan, (3) Kandahar Airfield, Afghanistan, and/or (4) any other facilities or locations in which Mr. Hassam has been detained, imprisoned or confined while in custody of U.S. forces or their agents.
4. All records concerning Mr. Hassam's Combatant Status Review Tribunal ("CSRT") process, including, without limitation, any records reviewed in connection with, or referenced in, any CSRT proceedings concerning Mr. Hassam. The government does not dispute that the Office for the Administrative Review of the Detention of Enemy Combatants (OARDEC) maintains separate files for each CSRT at its headquarters in Arlington, Virginia. See Declaration of Teresa A. McPalmer dated June 25, 2005, ¶ 3, Associated Press v. United States Department of Defense, No. 05 Civ. 3941 (JSR) (S.D.N.Y.) (docket no. 11).
5. All records concerning Mr. Hassam's entire medical history, including, without limitation, any treatments, surgeries, exam results, diagnoses and drug information, during his detention at (1) the U.S. Naval Base at Guantánamo Bay, Cuba, (2) Bagram Airfield, Afghanistan, (3) Kandahar Airfield, Afghanistan, and/or (4) any other facilities or locations in which Mr. Hassam has been detained, imprisoned or confined while in custody of U.S. forces or their agents.

¹ For purposes of each of the requests herein, the term "records" includes, without limitation, written or electronic documents, correspondence, notes, writings, drawings, graphs, charts, maps, photographs, audio recordings, video recordings, phonorecords, and any other data compilations from which responsive information can be obtained.

² For purposes of each of the requests herein, the term "concerning" means relating to, referring to, describing, evidencing or constituting.

Freedom of Information Act Request
April 27, 2006
Page 3

6. All documents concerning Mr. Hassam not otherwise responsive to the above enumerated requests

II. Request for Expedited Processing

Under Department of Defense regulations, expedited processing of a FOIA request is warranted when there is an "imminent loss of substantial due process rights and humanitarian need." 32 C.F.R. § 286.4(d)(3)(iv). On information and belief, Mr. Hassam has suffered and will continue to suffer loss of substantial due process rights, and the requested documents are necessary to help alleviate ongoing humanitarian violations. See attached Declaration in Support of Request for Expedited Processing.

III. Enclosed Authorization

To the extent the Department of Defense purports to require authorization from Mr. Hassam before any medical records requested herein may be released to his counsel, please find attached an authorization executed by Mr. Hassam authorizing the release of all medical records requested herein to his counsel, Cleary Gottlieb.

* * * * *

Should you determine that any portion of a record that is responsive to the above requests is for any reason exempt from mandatory disclosure, a copy of the non-exempt remainder of the record must nevertheless be produced. See 5 U.S.C. § 552(b); 32 C.F.R. § 286.23(d). Additionally, if you determine that some or all of the requested records are exempt from disclosure, please provide a list or index of the records (or portions thereof) withheld, the exemption invoked, an estimation of the volume of records denied, and the reasons why a discretionary release of the records would be inappropriate under the Department of Defense's implementing regulations and FOIA policy. See 32 C.F.R. § 286.23(e).

Cleary Gottlieb is willing to pay fees for this request up to a maximum of five thousand dollars (\$5000.00). If you estimate that the fees will exceed this limit, please inform me first.

Please direct all future written responses to my attention at:

Christopher Moore
Cleary Gottlieb Stern & Hamilton LLP
One Liberty Plaza
New York, New York 10006
Facsimile: (212) 225-3999

If you need to reach someone by telephone about this request, you may contact me at (b)(6) or my colleague, (b)(6) at (b)(6).

Freedom of Information Act Request
April 27, 2006
Page 4

I look forward to your response to the request for expedited processing within ten (10) calendar days of receipt, see 5 U.S.C. § 552(a)(6)(E)(ii)(I), 32 C.F.R. § 286.4(d)(3)(iv), and your response to the request for records within twenty (20) working days of receipt. See 5 U.S.C. § 552(a)(6)(A)(i), 32 C.F.R. § 286.4(d)(1). In the meantime, please do not hesitate to contact me with any questions, or if you require any additional information.

Sincerely,

(b)(6)

Christopher Moore

Enclosure



UNITED STATES CENTRAL COMMAND
7115 SOUTH BOUNDARY BOULEVARD
MACDILL AIR FORCE BASE, FLORIDA 33621-5101

05 MAY 2006

CCJ6-PER

Mr. Christopher Moore
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, NY 10006

REF: USCENCOM FOIA # 06-128

Dear Mr. Moore,

We received your Freedom of Information Act (FOIA) request on 1 May 2006, requesting expedited processing for all records concerning the circumstances under which Mr. Hassam first came to be in the custody of U.S. forces or their agents. On information and belief, Mr. Hassam was sold to U.S. forces in Afghanistan for \$5,000 in or about Spring 2002.

We have granted expedited processing in accordance with DOD 5400.7 R, Cl.5.4.3.4, which merit expedited processing for an imminent loss of substantial due process rights and humanitarian need as referenced in your FOIA request and within the declaration in support of the request for expedited processing.

If you have any questions, please contact USCENCOM FOIA Office at (813) 827-6413/2832 or you can email this office at FOIA_office@centcom.mil. Please use the reference when referring to this request.

Sincerely,

(b)(6)

TIMOTHY M. OCONNOR
LtCol, USMC
Freedom of Information Act
Officer



UNITED STATES CENTRAL COMMAND
7115 SOUTH BOUNDARY BOULEVARD
MACDILL AIR FORCE BASE, FLORIDA 33621-5101

CCJ6-PBR (FOIA)

25 JUN 2008

Mr. Christopher Moore
Clearly Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, NY 10006-1470

Dear Mr. Moore:

This letter is in reply to your Freedom of Information Act (FOIA) request for all documents pertaining to Mr. Zakirjan Hassam, who is presently detained at the U.S. Naval Base at Guantanamo Bay, Cuba.

Pursuant to procedures established in 5 U.S.C. 552, Freedom of Information Act and Privacy Act Guide and DOD 5400.7R, Department of Defense FOIA Program, our search encompassed only those documents in existence within the control of USCENCOM and its subordinate commands. However, despite our extensive and exhaustive search, we were unable to locate responsive documents.

Should you deem this no record response to be a denial, you may appeal this finding by offering justification to support an additional search effort. You may appeal this decision within 60 calendar days of the date above to Mr. James Hogan; Chief of Policy, Appeals, and Litigation Branch; DOD Office of Information, 1155 Defense Pentagon, Washington, D.C. 20301-1400.

There are no charges for processing this request.

If you have any questions regarding this FOIA request, please contact USCENTCOM FOIA Office at (813) 827-6413/6629. Please use USCENTCOM FOIA #06-128 when referring to this request.

Sincerely,

(b)(6)

PATRICK N. JOINER
LTC, USA
Freedom of Information
Act Officer

FOI/PA CASE ASSIGNMENT WORKSHEET

Case No: 06 A-00125-A1

ACTION ASSIGNED TO Fisher TEAM: A B C PMB REVIEWER (b)(6) CARD
 TYPE REQUEST: Appeal Commercial Educational News/Media NonCom/Scientific Other
 EXPEDITED RESPONSE REQUESTED GRANT? Y N DMDC/DCII CHECK
 UP-FRONT DOCUMENT SEARCH DATE RECEIVED:
 REMARKS: Appeal of CENTCOM FOIA 06-128

(b)(6)

one see me

Jim

06 AUG 28 9:30

CLOSED WITHDRAWN

(ASBCA) Armed Services Board of Contract Appeals
(AT&L) Acquisition, Technology, & Logistics
(AS&C) Advanced Systems & Concepts
(DARPA) Defense Advanced Research Projects Agency
(DPAP) Defense Procurement & Acquisition Policy
(DARC) Defense Acquisition Regulation Council
(DAU) Defense Acquisition University
(ECOADJ) Economic Adjustment
(DDR&E) Defense Research and Engineering
(DS) Defense Systems
(DSB) Defense Science Board
(DSMC) Defense Systems Management College
(DUSDAR) DUSD Acquisition Reform
(I&E) Installations & Environment
(JSFPO) Joint Strike Force Program Office
(L&MR) Logistics & Material Readiness
(DMEA) Defense Micro Electronics Activity
(IC) International Cooperation
(MDA) Missile Defense Agency
(NCB) Nuclear, Chemical, & Biological Defense Programs
(OSBP) Office of Small Business Programs
(SPPGMS) Special Programs
(ATSDIO) Assistant to the Secretary of Defense (Intelligence Oversight)
(COMP) Comptroller
(PA&E) Program Analysis & Evaluation
(DPO) Defense Privacy Office
(EXSEC) The Exec. Secretariat
(I) Intelligence

E-FOIA REPLY

(CIFA) Counterintelligence Field Activity
(JFSC) Joint Forces Staff College
(JS) Joint Staff
(LA) Legislative Affairs
(NDU) National Defense University
(NI) Networks and Information Integration
(NSPS) National Security Personnel System
(NSSG) National Security Study Group
(ODNA) Office of the Director, Net Assessment
(OGC) Office of General Counsel
(DOHA) Director, Office of Hearings and Appeals
(OSAWHL) Office of the Special Assistant to the Secretary of Defense for White House Liaison
(OT&E) Operational Test & Evaluation
(PA) Public Affairs
(DVIC) Defense Visual Information Center
(P&R) Personnel & Readiness
(CPMS) Civilian Personnel Management Service
(DEOMI) Defense Equal Opportunity Management Institute
(DMDC) Defense Manpower Data Center
(SIAD) Statistical Information Analysis Division
(FVAP) Federal Voting Assistance Program
(HA) Health Affairs
(DHSD) Deployment Health Support
(RA) Reserve Affairs
(USUHS) Uniformed Services University of Health Sciences
(PFPA) Pentagon Force Protection Agency
(USDP) USD (Policy)


(DRSO) Defense Reconstruction Support Office Formerly CPA & DSO-Iraq
(PDUSD) Principal Deputy
(DPB) Defense Policy Board
(ODA) Office of Detainee Affairs
(R&P) Resources and Plans
(STRATEGY) DASD
(ISA) International Security Affairs
(AFRA) African Affairs
(APA) Asian and Pacific Affairs
(DPMO) Defense POW Missing Personnel Affairs Office
(DSCA) Defense Security Cooperation Agency
(NESAA) Near Eastern & South Asian Affairs
(WHA) Western Hemisphere Affairs
(ISP) International Security Policy
(DTSA) Defense Technology Security Administration
(EURASIA) Russia, Ukraine, & EURASIA Affairs
(EURNATO) European and NATO Affairs
(FP) Forces Policy
(NP) Negotiations Policy
(HD) Homeland Defense
(SO/LIC) Special Operations and Low Intensity Conflict
(CN) Counter Narcotics
(CT) Combating Terrorism
(SO) Stability Operations
(WHMO) White House Military Office
(WHS) Washington Headquarters Services

(A&P) Acquisition & Procurement
(APSD) Administration & Program Support
(ESD) Executive Services Directorate
(DFD) Defense Facilities
(FMD) Financial Management
(GC) General Counsel
(HRD) Human Resources
(PENREN) Pentagon Renovation
No Nexus Response
Not a Proper FOIA Response
Not Reasonably Described
No Records Response
Verification Response

ARMY	DTRA
NAVY	NGA
USAF	NGB
USMC	NSA
	NSC
CENTCOM	SHAPE
EUCOM	TRICARE
JFCOM	
NORTHCOM	
PACOM	CIA
SOCOM	C. GUARD
SOUTHCOM	DEA
STRATCOM	DHS
TRANSCOM	DOE
	DOJ
DCAA	DOL
DCMA	FAA
OECA	FBI
DFAS	FEMA
DIA	GSA
DISA	NARA
DLA	NPRC
DoDIG	ONDCP
DoDEA	SEC. SVC.
DSS	STATE
DTIC	VA

FOI/PA CASE ASSIGNMENT WORKSHEET

Case No:

ACTION ASSIGNED TO _____ TEAM: A B C PMB REVIEWER  CARD _____
 TYPE REQUEST: Appeal Commercial Educational News/Media NonCom/Scientific Other
 EXPEDITED RESPONSE REQUESTED _____ GRANT? Y N DMDC/DCII CHECK _____
 UP-FRONT DOCUMENT SEARCH _____ DATE RECEIVED: _____
 REMARKS: Appeal of 06-128

06-A-0125

06-10-25 4:05

CLOSED WITHDRAWN

(ASBCA) Armed Services Board of Contract Appeals
(AT&L) Acquisition, Technology, & Logistics
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(DUSDAR) DUSD Acquisition Reform
(I&E) Installations & Environment
(JSFPO) Joint Strike Force Program Office
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(DMEA) Defense Micro Electronics Activity
(IC) International Cooperation
(MDA) Missile Defense Agency
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(OSBP) Office of Small Business Programs
(SPPGMS) Special Programs
(ATSDIO) Assistant to the Secretary of Defense (Intelligence Oversight)
(COMP) Comptroller
(PA&E) Program Analysis & Evaluation
(DPO) Defense Privacy Office
(EXSEC) The Exec. Secretariat
(I) Intelligence

E-FOIA REPLY

(CIFA) Counterintelligence Field Activity
(JFSC) Joint Forces Staff College
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(NDU) National Defense University
(NI) Networks and Information Integration
(NSPS) National Security Personnel System
(NSSG) National Security Study Group
(ODNA) Office of the Director, Net Assessment
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(DOHA) Director, Office of Hearings and Appeals
(OSA/WHL) Office of the Special Assistant to the Secretary of Defense for White House Liaison
(OT&E) Operational Test & Evaluation
(PA) Public Affairs
(DVIC) Defense Visual Information Center
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(CPMS) Civilian Personnel Management Service
(DEOMI) Defense Equal Opportunity Management Institute
(DMDC) Defense Manpower Data Center
(SIAD) Statistical Information Analysis Division
(FVAP) Federal Voting Assistance Program
(HA) Health Affairs
(DHSD) Deployment Health Support
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(PFFA) Pentagon Force Protection Agency
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(DRSO) Defense Reconstruction Support Office Formerly CPA & DSO-Iraq
(PDUSD) Principal Deputy
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(ODA) Office of Detainee Affairs
(R&P) Resources and Plans
(STRATEGY) DASD
(ISA) International Security Affairs
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(APA) Asian and Pacific Affairs
(DPMO) Defense POW Missing Personnel Affairs Office
(DSCA) Defense Security Cooperation Agency
(NESAA) Near Eastern & South Asian Affairs
(WHA) Western Hemisphere Affairs
(ISP) International Security Policy
(DTSA) Defense Technology Security Administration
(EURASIA) Russia, Ukraine, & EURASIA Affairs
(EURNATO) European and NATO Affairs
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(SOLIC) Special Operations and Low Intensity Conflict
(CN) Counter Narcotics
(CT) Combating Terrorism
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(APSD) Administration & Program Support
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(FMD) Financial Management
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No Nexus Response
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Not Reasonably Described
No Records Response
Verification Response

ARMY	DTRA
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USAF	NGB
USMC	NSA
	NSC
CENTCOM	SHAPE
EUCOM	TRICARE
JFCOM	
NORTHCOM	
PACOM	CIA
SOCOM	C. GUARD
SOUTHCOM	DEA
STRATCOM	DHS
TRANSCOM	DOE
	DOJ
DCAA	DOL
DCMA	FAA
DECA	FBI
DFAS	FEMA
DIA	GSA
DISA	NARA
DLA	NPRC
DoDIG	ONDCP
DoDEA	SEC. SVC.
DSS	STATE
DTIC	VA



DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

15 FEB 2007

Ref: 06-A-00125A

MEMORANDUM FOR U.S. CENTRAL COMMAND
CCJ6-DM (FOIA)
7115 SOUTH BOUNDARY
MACDILL AFB, FL 33621-5510

SUBJECT: Freedom of Information Act (FOIA) Appeal -- Mr. Christopher Moore

Attached is an appeal of your no record determination concerning a myriad of information pertaining to Mr. Zakirjan Hassam. We request your office conduct a search, of your U.S. Central Command Headquarters and the U.S. Army Central Command. If appropriate, please confirm your initial no record determination. Please provide this office with the details of the search you conduct.

If, upon the additional search records are found, identify information on the documents that you wish withheld by bracketing such in black pencil. Cite the exemption(s) invoked and rationale. Provide any additional comments that will assist in evaluating the appeal.

A Copy of DD Form 2086 is attached. Please forward your response, including documents (if any), with legal coordination, to this office by March 9, 2007. If you have any questions, please call Stephen Fisher, (b)(6)

(b)(6)

James P. Hogan
Chief, FOIA Policy, Appeals and Litigation

Attachments:
As stated

~~SECRET~~



DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

COPY

MAY 05 2010

Ref: 06-A-0125

MEMORANDUM FOR U.S. CENTRAL COMMAND

(ATTN: (b)(6))
CCJ6-RD (FOIA)
7115 SOUTH BOUNDARY BLVD
MACDILL AFB, FL 33621-5510

SUBJECT: Freedom of Information Act (FOIA) Appeal – Mr. Christopher Moore

We received your memorandum, dated October 7, 2009. We also received the newly located document (Personal Data Report) with your recommendations for partial release. We ask that you review the document again because of the following circumstances:

Upon receipt, we forwarded the newly located document to the Office of General Counsel (OGC) for review. OGC recommended the following:

1. Do not withhold the "DP" at the end of the long ISN. This is, if anything, a low (b)(2).
2. In some litigation cases, such as the Bagram FOIA Litigation case, OGC has withheld the capture date under FOIA Exemption (b)(1). OGC recommends that your office confirm that the capture date is unclassified in this particular case.

We are also requesting a clean copy of the responsive document.

Please forward your response to this office by May 25, 2010. You may direct any questions concerning this appeal to Mr. Darrell Williams at (b)(6), or

(b)(6)

(b)(6)

for James P. Hogan
Chief

Attachments:
As stated

~~SECRET~~

UNCLASSIFIED WHEN SEPARATED FROM ENCLOSURES

~~SECRET~~



DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

MAY 05 2010

Ref: 06-A-0125

COPY

MEMORANDUM FOR JOINT TASK FORCE GUANTANAMO BAY
(THRU: US SOUTHERN COMMAND)
(ATTN: (b)(6))
SCES-SM-CFO
3511 NW 91ST AVENUE
MIAMI, FL 33172-1217

SUBJECT: Freedom of Information Act (FOIA) Appeal – Mr. Christopher Moore

Attached is a copy of the appeal in the case referenced above. In order for the Acting Deputy Director, Administration and Management to fulfill responsibilities as the appellate authority, the following is requested:

Please review the attached document (Personal Data Report). The Department of Defense Office of General Counsel (OGC) conducted a review of the responsive document and recommended your office confirm that the "capture date" is unclassified. In some litigation cases, such as the Bagram FOIA Litigation case, OGC withheld the "capture date" under FOIA Exemption (b)(1); however, because it was determined that this detainee was not found to be an enemy combatant at his CSRT, the "capture date" may in fact be unclassified.

Please forward your response to this office by May 25, 2010. You may direct any questions concerning this appeal to Mr. Darrell Williams at (b)(6) or

(b)(6)

(b)(6)

for James P. Hogan
Chief

Attachments:
As stated

~~SECRET~~

UNCLASSIFIED WHEN SEPARATED FROM ENCLOSURES

~~SECRET/NOFORN~~



**DEPARTMENT OF DEFENSE
FREEDOM OF INFORMATION DIVISION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

MAY 10 2016
Ref: 06-A-0125-A1

MEMORANDUM FOR U.S. SOUTHERN COMMAND
SCJ1-A-(FOIA)
3511 NW 91 ST AVENUE
MIAMI, FL 33172-1217
ATTN: MARCO VILLALOBOS

SUBJECT: Freedom of Information Act (FOIA) Appeal – Mr. Christopher P. Moore

Attached are copies of the initial FOIA request, the Appeal and one document totaling four (4) pages in the case referenced above. During the initial determination, the document was denied in part. In order for the Director, Oversight and Compliance to fulfill responsibilities as the appellate authority, the following is requested:

Please conduct a line-by-line review of the information previously denied. If you determine any of the previously denied information should remain exempt from release, enclose that information in RED brackets, cite the FOIA exemption(s) invoked, and provide your rationale for continued denial. The translucent redactions contain the previously recommended redactions. Please provide specific recommendations regarding the release of the ISN number. Note: The United States Central Command is concurrently reviewing this document.

Please forward your response to this office by June 10, 2016. If you have questions regarding this appeal, please contact Donald Nicholson at (b)(6) or

(b)(6)

(b)(6)

Danaeka Spear
Chief, Appellate Office

Attachments:

- Tab (1) FOIA request dated April 27, 2006
- Tab (2) FOIA Appeal dated August 24, 2006
- Tab (3) U.S. CENTCOM response memo dated June 25, 2006
- Tab (4) U.S. CENTCOM appellate review response 2010

~~SECRET/NOFORN~~

UNCLASSIFIED WHEN SEPARATED FROM ENCLOSURES

~~SECRET/NOFORN~~



**DEPARTMENT OF DEFENSE
FREEDOM OF INFORMATION DIVISION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

MAY 10 2016

Ref: 06-A-0125-A1
06-128A

MEMORANDUM FOR U.S. CENTRAL COMMAND
CCJ6-DM (FOIA)
7115 SOUTH BOUNDARY
MACDILL AFB, FL 33621-5510

SUBJECT: Freedom of Information Act (FOIA) Appeal – Mr. Christopher Moore

Attached are copies of the initial FOIA request, the Appeal and one document totaling four (4) pages in the case referenced above. During the initial determination, the document was denied in part. In order for the Director, Oversight and Compliance to fulfill responsibilities as the appellate authority, the following is requested:

Please conduct a line-by-line review of the information previously denied. If you determine any of the previously denied information should remain exempt from release, enclose that information in RED brackets, cite the FOIA exemption(s) invoked, and provide your rationale for continued denial. The translucent redactions contain the previously recommended redactions. Please provide specific recommendations regarding the release of ISN number, as part of the information was recommended for partial release pursuant to 5 U.S.C. § 552(b)(2). The United States Southern Command is concurrently reviewing this document.

Please forward your response to this office by June 10, 2016. If you have questions regarding this appeal, please contact Donald Nicholson at (b)(6) or

(b)(6)

(b)(6)

Danaeka Spear
Chief, Appellate Office

Attachments:

- Tab (1) FOIA request dated April 27, 2006
- Tab (2) FOIA Appeal dated August 24, 2006
- Tab (3) U.S. CENTCOM response June 25, 2006
- Tab (4) U.S. CENTCOM appellate review response 2010

~~SECRET/NOFORN~~

UNCLASSIFIED WHEN SEPARATED FROM ENCLOSURES



**DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

13 JUN 2006

Ref: 06-A-0424(A)

**MEMORANDUM FOR UNDER SECRETARY OF DEFENSE
FOR INTELLIGENCE
ATTN: (b)(6)**

SUBJECT: Freedom of Information Act (FOIA) Appeal – Mr. Christopher Law

Attached is an appeal of your denial of information pertaining to Able Danger, in response to the case referenced above. You denied the requested information under (b)(1), (b)(6), (b)(5), (b)(7)(A), and (b)(7)(C), due to an open Department of Defense Inspector General (DoDIG) investigation. This office requests that you check with the DoDIG to see if the investigation is still on-going, and when they expect it to be completed. If the DoDIG doesn't expect the investigation to be completed by July 11, 2006, please return the completed SD 472 citing the exemptions for continued denial. If however, the investigation is completed by the above referenced date, please process the documents and return them along with the completed SD 472, and legal coordination, to this office by August 15, 2006. Please be advised that this office will handle any coordination of the information with the originating agencies.

Copies of forms SD 472 and DD 2086 are attached. Please direct any questions concerning this appeal to Mr. Stephen Fisher on (b)(6)

(b)(6)

James P. Hogan
Chief, FOIA Policy, Appeals, and Litigation

Attachments:
As stated

May 30, 2006

Attn: James Hogan, Chief
Policy, Appeals, and Litigation Branch
Department of Defense
Office of Freedom Information
1155 Defense Pentagon
Washington, DC 20301-1155

SENT VIA: Certified Mail
Return Receipt Requested

Re: Freedom of Information Act Appeal Ref: 06-F-0424

Mr. James Hogan,

This letter is regarding my Freedom of Information Act request Ref# 06-F-0424.

By letter dated May 8, 2006, the Department of Defense Office of Freedom of Information is withholding approximately 9,500 pages of documents responsive to my FOIA request of November 7, 2005, by claiming exemptions 5 U.S.C. §§ 552 (b)(7)(A), 5 U.S.C. §§ 552 (b)(1), 5 U.S.C. §§ 552 (b)(6), and 5 U.S.C. §§ 552 (b)(7)(C).

The release of these 9,500 pages of documents would contribute substantially to the public's understanding of the controversial Able Danger data mining program.

I appeal the withholding of these 9,500 pages of documents in their entirety. If you determine that any of these 9,500 pages documents contribute to the public understanding of the Able Danger program, I request the release of any reasonable segregable portions of those documents.

Sincerely,

Christopher Law

(b)(6)



Cc: Will Kammer, Chief, Office of Freedom of Information, DoD



National Security News Service
a project of the Public Education Center

November 7th, 2005

Office of Freedom of Information
1155 Defense Pentagon
Washington, DC 20301-1155

Re: Freedom of Information Act Request

To the Departmental Disclosure Officer:

This is a request under the Freedom of Information Act 5 U.S.C. § 552.

I request the following as it relates to any Defense Department's Intelligence Oversight Report:

- All records including but not limited to notes, contracts, correspondence, memoranda, reports, and email pertaining to the data mining program known as Able Danger which operated from 1999 until 2001 under the auspices of the US Army, SOCOM, and the Land Information Warfare Center.

The following may provide assistance in locating the records in question. According to the testimony of William Dugan, Acting Assistant to the Secretary of Defense for Intelligence Oversight, given to the United States Senate Committee on the Judiciary on September 21st, 2005, the Defense Department's Intelligence Oversight Report "describes any significant Defense Intelligence Oversight issues that warrant the attention of the Secretary and Deputy Secretary of Defense and the President's Foreign Intelligence Advisory Board." William Dugan's office receives "each quarter the reports of the Joint Staff, the Combatant Commands, the Military Services, and the Defense intelligence agencies. It is reviewed and signed jointly by the DOD General Counsel and the ATSD(IO) and then approved by the Deputy Secretary of Defense. The Quarterly Intelligence Oversight Report is then provided to the Intelligence Oversight Board of the President's Foreign Intelligence Advisory Board."

Please provide this media in electronic format if available.

In order to help to determine my status to assess fees, you should know I am a reporter with the National Security News Service and this request is made as part of a news gathering and not for commercial use.

I am willing to pay fees for this request up to a maximum of \$25. If you estimate that the fees will exceed this limit, please inform me first.

If you deny any part of this request, please cite each specific reason that you think justifies your refusal to release the information and notify me of appeal procedures available to me under the law.

Please honor expedited review of this request. This information is of timely value and as a journalist, I am primarily engaged in disseminating information.

If you have any questions processing this request, you may contact me at the following telephone number or e-mail address: (202) 466-4310 or law@publicedcenter.org

Thank you for your consideration of my request.

Sincerely,

(b)(6)

A large rectangular area of the document is redacted with a solid gray fill. The redaction covers the signature and the first line of the contact information.

Christopher Law
National Security News Service
1100 Connecticut Ave., N.W., Suite 1310
Washington, D.C. 20036-4119
(202) 466-4310



DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

13 JUN 2006

Ref: 06-A-0424(A)

Mr. Christopher Law
National Security News Service
1100 Connecticut Ave., NW, Suite 1310
Washington, DC 20036-4119

Dear Mr. Law:

This acknowledges receipt of your Freedom of Information Act appeal, dated May 30, 2006.

Due to a large number of pending appeals, we are unable to complete your appeal within the statutory time requirement. In fairness to the general public, we make every effort to treat all requesters equally. Accordingly, responses are made on a first-in, first-out, easy-hard basis, and controlled in response queues. After the appellate review, your appeal will be processed in turn, by date of its receipt, and whether the case is easy or difficult to complete.

Sincerely,

(b)(6)

James P. Hogan
Chief, FOIA Policy, Appeals and Litigation



ADMINISTRATION AND
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE
1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

19 JUL 2007

Ref: 06-A-0456

MEMORANDUM FOR: ASD NETWORKS AND INFORMATION INTEGRATION

ATTN: (b)(6)

SUBJECT: Freedom of Information Act (FOIA) Appeal – Mr. Russell Carollo

Attached is an appeal of your denial of information in the case referenced above. In order for the Deputy Director, Administration and Management to fulfill responsibilities as the appellate authority, the following is requested:

Please conduct another review of the information previously denied to the requester. If you determine that this information is fully releasable, then forward only one copy of the responsive information to this office. However, if you wish to continue withholding any information, enclose that information in red brackets on one copy of the documents. Then, include with your response a second copy of the documents which are “clean,” with no markings or brackets. Cite the FOIA exemption(s) invoked for any recommended withholding, and your rationale for denial.

Please forward your response to this office by August 17, 2007. You may direct any questions concerning this appeal to Mr. Michael Bell at (b)(6) or

(b)(6)

(b)(6)

James P. Hogan
Chief, FOIA Policy, Appeals and Litigation
Branch

Attachment:
As stated



DEPARTMENT OF DEFENSE
FREEDOM OF INFORMATION DIVISION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

MAY 17 2016

Ref: 06-A-0456-A1
06-F-0456

MEMORANDUM FOR NETWORKS AND INFORMATION INTEGRATION (NII)

ATTN: (b)(6)

SUBJECT: Freedom of Information Act (FOIA) Appeal – Mr. Russell Corollo

Attached are copies of the initial FOIA request, response letter, Appeal and Form 472 with regard to the case referenced above. NII initially determined that the Information Technology Registry Database was exempt in its entirety from disclosure pursuant to FOIA exemption (b)(2)(high). As you are aware, DoD in compliance with recent court rulings, only apply exemption (b)(2) as it pertains solely to the internal rules and practices of the agency. In order for the Director, Oversight and Compliance to fulfill responsibilities as the appellate authority, the following is requested:

Please conduct a line-by-line review of the information previously denied. If you determine any of the previously denied information should remain exempt from release, enclose that information in RED brackets, cite the FOIA exemption(s) invoked, and provide your rationale for continued denial on SD Form 472.

Please forward your response to this office by July 1, 2016. If you have questions regarding this appeal, contact Jeanne Moretti at (b)(6) or (b)(6)

Sincerely,

(b)(6)

[Signature]
Danaeka Spear
Chief, Appellate Office

Attachments:

- 1) Tab A - Request letter
- 2) Tab B - Response letter
- 3) Tab C - Appeal letter
- 4) Tab D - NII SD Form 472 (2006/2007)
- 5) Tab E - SD Form 472 (electronic)

The Sacramento Bee
sacbee.com

06-A-0456-A1

THRU: (b)(6)

Phone: (b)(6)

Fax: (b)(6)

Email: (b)(6)

May 10, 2007

Jim Hogan
Appeals and Litigation Branch

This is an appeal under the Freedom of Information Act, 5 U.S.C. 552. On Oct. 18, 2005 (response incorrectly stated 2006), I filed the attached request. The response is attached.

The response was not correct for the following reasons:

1) This website lists the names of numerous DOD databases:

<http://www.defenselink.mil/privacy/notices/>

The response, however, stated that giving out the name of any DOD databases would somehow allow a computer expert access.

I've attached a list of just some of the databases identified on this site.

Dozens more can be found in the Federal Register.

2) Identifying the names of databases does not grant access. Government databases are protected with layers and layers of safeguards, including firewalls, passwords and other security measures.

If a computer expert could get access with just a name, why then did the U.S. Army Audit Agency disclose (in the document I attached to my FOIA and to this appeal) the name of a database that identifies other databases? Why then doesn't DOD make a policy that the names of all databases are never to be made public? Why then does DOD continue to identify the names of databases?

I respectfully ask that you consider that this request and appeal are made by a journalist for a newspaper in this country and that the information I seek is sought under a law intended by Congress to keep our citizens informed about the activities of government – a law our government and many other feels is vital to a free national. I also respectfully ask that you consider that this response is not in keeping with the spirit or the letter of that law or with your own policies.

In any case, I expect to receive your decision no later than by 20 business days, as the statute requires.

Thank you for your assistance.

(b)(6)

Russell Carollo
Reporter

7005-1820-0005-2236-1129



**DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

19 JUL 2007

Ref: 06-A-0456

Mr. Russell Carollo
The Sacramento Bee

(b)(6)

Dear Mr. Carollo:

This is in response to your May 10, 2007, Freedom of Information Act (FOIA) appeal.

Due to an extremely heavy FOIA workload, we are unable to complete your appeal within the statutory time requirement. In fairness to the general public, we make every effort to treat all requesters equally. Accordingly, responses are made on a first-in, first-out, easy-hard basis, and controlled in response queues. When the appellate review of your case is complete, you will be notified by the appellate authority, the Deputy Director of Administration and Management, Office of the Secretary of Defense, of the final decision.

Sincerely

(b)(6)

/s/ James P. Hogan
Chief, FOIA Policy, Appeals and Litigation
Branch

Dayton Daily News

THRU: (b)(6)

(b)(6)

Phone: (b)(6)

Fax:

Email: (b)(6)

Oct. 18, 2005

Charles Talbott
Department of Defense

Pursuant to the federal Freedom of Information Act, 5 U.S.C. 552, I request access to and a copy of the Information Technology Registry Database and any other system of records currently holding similar information or information once held or currently held in this database.

I've attached a document to assist in your search.

I also request that you include a record layout (data dictionary) describing all database fields, including withheld fields. I need raw computer data in an electronic form (CD Rom, 3.5 diskette or Jazz disk/Excel or Access format is OK) with field delimiters, not a text dump, printout or directions to a website. Also, please include definitions for any codes used in the databases.

Please justify each deletion (including individual computer fields) separately by reference to specific exemptions of the Act, and release all reasonably segregable portions of otherwise exempt material. I, of course, reserve the right to appeal any decisions.

I will only modify this request in writing via certified mail. None via telephone.

Include information contained in the material that otherwise would be considered non-responsive to the specific request. Let me know if similar requests have been filed.

Notify me prior to incurring more than \$150 of expenses. The information is intended for a newspaper series that, as the fee waiver requires, is "likely to contribute significantly to public understanding of the operations or activities of the government." Several projects about government operations written by me were distributed by Cox to its own newspapers and to papers serviced by its wire operation. Those projects resulted in network news magazine shows on ABC, NBC, CBS and cable networks, Congressional hearings, federal legislation, policy changes and numerous national awards, including three presented personally by U.S. Presidents Ford, Clinton and George W. Bush. I ask that you waive all fees.

This information is of timely value, so please communicate questions by telephone rather than by mail. I look forward to your reply within 20 business days, as the statute requires.

(b)(6)

Russell Canino, reporter

The First **COX** Newspaper

7003-1680-0007-4470-6629

12/5/05
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ABOUT
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04-F-0456

FREEDOM OF INFORMATION ACT REQUEST INTERIM RESPONSE			
1. DATE OF REQUEST	2. DATE RECEIVED	3. CASE WORKLOAD	4. CASE NUMBER
Oct 18, 2005	Oct 25, 2006	2019	04-F-0456
<p>This is an interim response to your Freedom of Information Act (FOIA) request, received in this office on the above date. Your request has been assigned the case number indicated above, and is being processed as quickly as possible in accordance with procedural requirements promulgated in DoD Regulation 5400.7-R at 32 CFR 286. The actual processing time will depend upon its complexity, whether it involves sensitive records, voluminous records, extensive searches, consultation among DoD components or other agencies, and our administrative workload which is listed in block 3 above.</p> <p>If you have any questions, please call (b)(6) and ask for</p> <p>(b)(6)</p>			
<p>Office of Freedom of Information and Security Review Room 2C757, 1155 Defense Pentagon, Washington, DC 20301-1155</p>			



**DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

APR 30 2007

Ref: 06-F-0456

Mr. Russell Carollo
Dayton Daily News




Dear Mr. Carollo:

This is the final response to your Freedom of Information Act (FOIA) request dated October 18, 2006, for "access to and a copy of the Information Technology Registry Database and any other system of records currently holding similar information or information once held or currently held in this database." You also requested a record layout describing all database fields. I apologize for the delay of this response, which was caused by the need to consult with another Department of Defense (DoD) component.

Sheila Tally, an Initial Denial Authority for the Office of Networks and Information Integration, has determined that the information you seek is exempt from release. The release would allow a computer expert with sufficient knowledge to target and potentially interrupt functioning of the DoD automated systems. It would allow an adversary to circumvent the safeguards in place that protect the integrity of DoD Information Systems. Therefore, this information is denied pursuant to 5 U.S.C. § 552(b)(2)(high).

If you are not satisfied with this action, you may submit an administrative appeal to James Hogan, Chief, Policy, Appeals and Litigation Branch at the above address. Your appeal should be postmarked within 60 calendar days of the date of this letter, should cite to case number 06-F-0456, and should be clearly marked "Freedom of Information Act Appeal." There are no fees associated with this response.

Sincerely,


for Will Kammer
Chief

FOI/PA CASE ASSIGNMENT WORKSHEET

Case No: **06-A-0456-A1**

ACTION ASSIGNED TO _____ TEAM: A B C PMB REVIEWER ☒ CARD _____
 TYPE REQUEST: Appeal Commercial Educational News/Media NonCom/Scientific Other _____
 EXPEDITED RESPONSE REQUESTED _____ GRANT? Y N DCII CHECK _____
 UP-FRONT DOCUMENT SEARCH _____ DATE RECEIVED: _____
 REMARKS: _____

107 MAY 28 2:42

CLOSED WITHDRAWN

(ASBCA) Armed Services Board of Contract Appeals
(AT&L) Acquisition, Technology, & Logistics
(A&T) Acquisition & Technology
(DAU) Defense Acquisition University
(DPAP) Defense Procurement & Acquisition Policy
(DARC) Defense Acquisition Regulation Council
(PSA) Portfolio Systems Acquisition
(TC) Treaty Compliance
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(BT) Business Transformation
(BTA) Business Transformation Agency
(DDR&E) Defense Research and Engineering
(AS&C) Advanced Systems & Concepts
(DARPA) Defense Advanced Research Projects Agency
(DMEA) Defense Micro Electronics Activity
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(I&E) Installations & Environment
(ECOADJ) Economic Adjustment
(L&MR) Logistics & Material Readiness
(IC) International Cooperation
(MDA) Missile Defense Agency
(NCB) Nuclear, Chemical, & Biological Defense Programs
(SPPGMS) Special Programs
(ATSDIO) Assistant to the Secretary of Defense (Intelligence Oversight)
(COMP) Comptroller
(PA&E) Program Analysis & Evaluation
(DPO) Defense Privacy Office
(EXSEC) The Exec. Secretariat

E-FOIA REPLY

(I) Intelligence
(CIFA) Counterintelligence Field Activity
(JS) Joint Staff
(LA) Legislative Affairs
(NDU) National Defense Univ.
(NII) Networks and Information Integration
(NSPS) National Security Personnel System
(NSSG) National Security Study Group
(ODNA) Office of the Director, Net Assessment
(OGC) Office of General Counsel
(DOHA) Director, Office of Hearings and Appeals
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(P&R) Personnel & Readiness
(CPMS) Civilian Personnel Management Service
(DEOMI) Defense Equal Opportunity Management Institute
(DMDC) Defense Manpower Data Center
(SIAD) Statistical Information Analysis Division
(FVAP) Federal Voting Assistance Program
(HA) Health Affairs
(DHSD) Deployment Health Support
(RA) Reserve Affairs
(USUHS) Uniformed Services University of Health Sciences
(PPFA) Pentagon Force Protection Agency
(USDP) USD (Policy)
(AP) Asian & Pacific Security Affairs
(CEN) Central Asia

(EAS) East Asia
(SEA) South and Southeast Asia
(IS) International Security Affairs
(AFR) Africa
(EUR) Europe & NATO
(MID) Middle East
(GS) Global Security Affairs
(CMO) Coalition Affairs
(GTS) Counternarcotics, Counterproliferation, and Global Threats
(DPO) Detainee Affairs
(MPA) Defense POW Missing Personnel Affairs Office
(DSCA) Defense Security Cooperation Agency
(DTSA) Defense Technology Security Administration
(PRT) Partnership Strategies
(HD) Homeland Defense and America's Security Affairs
(CMC) Crisis Management & Defense Support for Civil Authorities
(HLD) Homeland Def.
(HSI) Homeland Security Integration
(WHA) Western Hemisphere Affairs
(PDUSSP) Policy Director
(PPO) Policy Planning
(SPD) Support for Public Diplomacy
(SO/LIC) Special Operations and Low Intensity Conflict
(FT&R) Forces Transformation & Resources
(SOC) Special Operations
(STB) Stability Operations
(STR) Strategic Capabilities

(WHMO) W. H. Military Office
(WHS) Washington Headquarters Service
(A&P) Acquisition & Procurement
(ESD) Executive Services Directorate
(GC) General Counsel
(HRD) Human Resources
(PENREN) Pentagon Renovation
No Nexus Response
Not a Proper Request Reply
Not Reasonably Described
No Records Response
Not an Agency Record
Verification Response

ARMY	DTRA
NAVY	NGA
USAF	NGB
USMC	NSA
	NSC
CENTCOM	SHAPE
EUCOM	TRICARE
JFCOM	
NORTHCOM	
PACOM	CIA
SOCOM	C. GUARD
SOUTHCOM	DEA
STRATCOM	DHS
TRANSCOM	DOE
	DOJ
DCAA	DOL
DCMA	FAA
DECA	FBI
DFAS	FEMA
DIA	GSA
DISA	NARA
DLA	NPRC
DoDIG	OPM
DoDEA	SEC. SVC.
DSS	STATE
DTIC	VA

~~Confidential~~



**DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

NOV 7 2013

Ref: 06-A-0557

MEMORANDUM FOR: USD POLICY

(ATTN: (b)(6))

SUBJECT: Freedom of Information Act (FOIA) Appeal – Mr. Michael Evans

Attached are copies of the appeal, initial FOIA request, and the responsive documents to the case referenced above. In order for the Deputy Director, Administration and Management to fulfill responsibilities as the appellate authority, we ask that you do the following:

On July 27, 2009, Policy completed an appellate review of the attached document. This document was initially withheld in its entirety. During this review, Policy recommended that that some information be released on appeal. Due to the passage of time, we are asking that Policy take a second look at this responsive document. The information shaded in gray was recommended by Policy for continued denial. If Policy concurs with their first appellate review, we are asking that your office complete a new form 472, citing the FOIA exemption(s) invoked, and provide your rationale for continued denial.

Please forward your response to this office by November 22, 2013. You may direct any questions concerning this appeal to Ms. Danaeka Spear at (b)(6) or (b)(6).

Sincerely,

(b)(6)

for James P. Hogan
Chief

Attachments:

- (1): Mr. Evan's FOIA Appeal
- (2): Mr. Evan's initial FOIA request
- (3): Policy's 2009 appellate 472
- (4): Responsive Document

~~Confidential~~

UNCLASSIFIED WHEN SEPARATED FROM ENCLOSURES

06-A-0557-A

The National Security Archive

The George Washington University
Gelman Library, Suite 701
2130 H Street, N.W.
Washington, D.C. 20037

Phone: 202/994-7029
Fax: 202/994-7005
Email: mevans@gwu.edu
<http://www.nsarchive.org>

February 20, 2009

IN ALL CORRESPONDENCE PLEASE REFER
TO ARCHIVE FILE NO. 20050849DIA140

YOUR FILE NO. DIA #0582-05, Ref: 06-F-0557

James Hogan, Chief
Defense Freedom of Information Policy Office
1155 Defense Pentagon,
Washington, D.C. 20301-1155

RE: FREEDOM OF INFORMATION ACT APPEAL

Dear Mr. Hogan:

This letter constitutes an administrative appeal in accordance with the Freedom of Information Act (FOIA), 5 U.S.C. Sec. 552, of a Department of Defense response to an undated request in 2005. My associate, Mary Lilley, filed a request for records pertaining in whole or in part to the arrest of Ricardo Palmera Pineda, also known as Simon Trinidad, who was senior leader of the Revolutionary Armed Forces of Colombia.

In a letter dated December 24, 2008 (Attachment 1), the Department of Defense informed Ms. Lilley that her request resulted in the retrieval of one document, which according to the office of the Assistant Secretary of Defense for Western Hemisphere Affairs, is exempt from release "because it contains information which is currently and properly classified in accordance with Executive Order 12958, as amended, Section 1.4(d), which concerns foreign relations or foreign activities of the United States."

While I am aware of the importance of the classification procedures pursuant to Executive Order 12958, I request that the Department of Defense exercise its discretion to ensure maximum declassification of information on Ricardo Palmera's arrest by conducting a detailed line-by-line review of the withheld document.

I would point out that his arrest was widely covered by news media throughout the world due to his infamous reputation as a FARC senior leader and the efforts of the U.S. base in Manta, Ecuador and Ecuadorian personnel in the arrest (Attachment 2).

Additionally, I ask that you please consider the renewed commitment to transparency by President Barack Obama, who, on his first full day in office, pledged to create "an unprecedented level of openness in Government." President Obama has also stated his clear preference that in making declassification decisions, agencies should favor openness: "All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government."

In making your declassification decision, I also ask that you please consider the value of this material both to historians and to ongoing peace and reconciliation efforts in Colombia. The release of any material related to "Simon Trinidad" would be of great benefit to the Colombian government's National Commission on Reparation and Reconciliation (CNRR), created under the Justice and Peace Law of 2005 to administer and

An independent non-governmental research institute and library located at the George Washington University, the Archive collects and publishes declassified documents obtained through the Freedom of Information Act. A tax-exempt public charity, the Archive receives no U.S. government funding; its budget is supported by publication royalties and donations from foundations and individuals.

adjudicate the disarmament and demobilization of thousands of illegal armed actors and to oversee their reintegration into Colombian society. As important, the Commission has also been charged with ensuring that victims of violence receive just reparations from those responsible for these crimes, and with the preservation of the right of the victims and of society to an accurate reconstruction of the truth.

In particular, release of this material would assist the Commission in the production of its report on the "emergence and evolution of the illegal armed groups" in Colombia, including the United Self-Defense Forces of Colombia (AUC), the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), narco-trafficking organizations and other groups. The report will cover some of the most egregious acts of violence committed by these groups and, in some cases, agents of the Colombian state.

Thank you for your consideration of this appeal. I look forward to a prompt response. Should you have any questions, please do not hesitate to contact me by phone at (202) 994-7029, or by email (b)(6)

Sincerely,

(b)(6)

Michael Evans
Analyst

Attachments

1. U.S. Department of Defense letter to Mary Lilley (December 24, 2008).
2. EFE News Service, "Ecuadorian police capture top FARC leader, deport him to Colombia" (January 3, 2004).
 - a. Dow Jones Newswires, "Colombian Pres Hails Capture Of FARC Rebel Leader" (January 3, 2004).



DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

20 FEB 2009

Ref: 06-A-0557
20050849DIA140

Mr. Michael Evans
The National Security Archive
The George Washington University
Gelman Library, Suite 701
2130 H Street, NW
Washington, DC 20037

Dear Mr. Evans:

This is in response to your February 20, 2009, Freedom of Information Act (FOIA) appeal.

Due to an extremely heavy FOIA workload, we are unable to complete your appeal within the statutory time requirement. In fairness to the general public, we make every effort to treat all requesters equally. Accordingly, responses are made on a first-in, first-out, easy-hard basis, and controlled in response queues. When the appellate review of your case is complete, you will be notified by the appellate authority, the Deputy Director of Administration and Management, Office of the Secretary of Defense, of the final decision. You may direct any questions concerning this appeal to Mr. Michael Bell at (b)(6) or

(b)(6)

Sincerely,

(b)(6)

James P. Hogan
Chief

-101-

The National Security Archive

The George Washington University
Gelman Library, Suite 701
2130 H Street, N.W.
Washington, D.C. 20037

06-F-0557

Phone: 202/994-7000
Fax: 202/994-7005
nsarchiv@gwu.edu
www.nsarchive.org

Brian S. Kinsey
Chief, Freedom of Information Staff
Defense Intelligence Agency
FOIA Staff, DAN-1A (FOIA)
Washington, DC 203405100

Re: Request under the FOIA, in reply refer to Archive# 20050849DIA140

Dear Mr. Kinsey :

Pursuant to the Freedom of Information Act (FOIA), I hereby request disclosure of the following documents for inspection and possible copying:

All records – including but not limited to cables, intelligence reports, memoranda, letters, talking points, summaries, transcripts, memoranda of conversation and electronic mail messages – pertaining in whole or in part to the arrest of Ricardo Palmera Pineda, also known as Simon Trinidad, who was a Senior leader of the Revolutionary Armed Forces of Colombia. The arrest took place in Ecuador on January 2, 2004. I would also like to request all records pertaining to U.S. involvement in the arrest. The Defense minister of Colombia, Jorge Alberto Uribe, called U.S. support in the arrest "vital." Furthermore, Colombian agents worked with American intelligence operatives in tracking Palmera Pineda for months before his capture.

If you regard any of these documents as potentially exempt from the FOIA's disclosure requirements, I request that you nonetheless exercise your discretion to disclose them. As the FOIA requires, please release all reasonably segregable non exempt portions of documents. To permit me to reach an intelligent and informed decision whether or not to file an administrative appeal of any denied material, please describe any withheld records (or portions thereof) and explain the basis for your exemption claims.

As you know, the National Security Archive qualifies for a waiver of search and review fees as a representative of the news media. This request is made as part of a scholarly and news research project and not for commercial use. For details on the Archive's research and publication activities, please see our Web site at the address above. Please notify me before incurring in photocopying costs over \$100.

To expedite the release of the requested documents, please disclose them on an interim basis as they become available to you, without waiting until all the documents have been processed. If you have any questions regarding the identity of the records, their location, the scope of the request or any other matters, please call me at (202) 994-7000. I look forward to receiving your response within the twenty day statutory time period.

Sincerely yours,

(b)(6)

Mary Liley



**DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

24 DEC 2008

Ref: 06-F-0557
DIA # 0582-05
20050849DIA140

Ms. Mary Lilley
The National Security Archive
Gelman Library, Suite 701
2130 H. St., NW
Washington, D.C. 20037

Dear Ms. Lilley:

This is the final response to your undated Freedom of Information Act (FOIA) to the Defense Intelligence Agency (DIA) for all records "pertaining in whole or in part to the arrest of Ricardo Palmera Pineda, also known as Simon Trinidad, who was a Senior leader of the Revolutionary Armed Forces of Colombia." The DIA forwarded one document, totaling four pages, to this office for our review and response to you.

Paul Hulley, an Initial Denial Authority for the Office of the Assistant Secretary of Defense for Western Hemisphere Affairs, has determined that the document is exempt from release because it contains information which is currently and properly classified in accordance with Executive Order 12958, as amended, Section 1.4 (d), which concerns foreign relations or foreign activities of the United States. Accordingly, this information is being withheld pursuant to 5 U.S.C. § 552(b)(1).

If you are not satisfied with this action, you may submit an appeal to this Office, by writing to James Hogan, Chief, Defense Freedom of Information Policy Office, 1155 Defense Pentagon, Washington D.C. 20301-1155. Your appeal should be postmarked within 60 calendar days of the date of this letter, should cite to case number 06-F-0557, and should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

(b)(6)

Will Kammer
Chief

06-A-0557-A1

REMARKS:

(AT&L) Acquisition, Technology, & Logistics	
(AS&C) Advanced Systems & Concepts	
(A&T) Acquisition & Technology	
(BTA) Business Transformation Agency	
(DARS) Defense Acquisition Regulation System	
(DARPA) Defense Advanced Research Projects Agency	
(DAU) Defense Acquisition University	
(DDR&E) Defense Research and Engineering	
(DMEA) Defense Micro Electronics Activity	
(DPAP) Defense Procurement & Acquisition Policy	
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(I&E) Installations & Environment	
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(PA&E) Program Analysis & Evaluation	
(DPO) Defense Privacy Office	
(EXSEC) The Exec. Secretariat	
(OGC-LA) Prior to EXSEC	
(I) USD - Intelligence	
(JS) Joint Staff	
(LA) Legislative Affairs	
(NDU) National Defense Univ.	
(NI) Networks and Information Integration	
(ODNA) Office of the Director, Net Assessment	

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(OMC) Office of Military Commissions	
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(PA) Public Affairs	
(DMA) Defense Media Activity	
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(CPMS) Civilian Personnel Management Service	
(DMDC) Defense Manpower Data Center	
(FVAP) Federal Voting Assistance Program	
(HA) Health Affairs	
<i>(DHSD) Deployment Health Support-thru HA</i>	
(RA) Reserve Affairs	
(PFPA) Pentagon Force Protection Agency	
(USDP) (Policy)	
(AP) Asian & Pacific Security Affairs	
(IS) International Security Affairs	
(GS) Global Security Affairs	
(DPO) Detainee Affairs	
(DPMD) Defense POW Missing Personnel Affairs Office	
(DSCA) Defense Security Cooperation Agency	
(DTSA) Defense Technology Security Administration	
(HD) Homeland Defense and America's Security Affairs	
(SO/LIC) Special Operations and Low Intensity Conflict	

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No Nexus Response	
Not a Proper Request Reply	
Not Reasonably Described	
Not an Agency Record	
No Records Response	
Withdrawn	
DCII Check	
Card or E-mail Interim	

ARMY	DTRA	
NAVY	NGA	
USAF	NGB	
USMC	NRO	
	NSA	
CENTCOM	NSC	
EUCOM	TRICARE	
JFCOM		
NORTHCOM	CIA	
PACOM	C. GUARD	
SOCOM	DEA	
SOUTHCOM	DHS	
STRATCOM	DOE	
TRANSCOM	DOJ	
	DOL	
CITF	FAA	
DCAA	FBI	
DCMA	FEMA	
DECA	GSA	
DFAS	NARA	
DIA	NPRC	
DISA	OPM	
DLA	SEC. SVC.	
DoDIG	STATE	
DoDEA	VA	
DSS		

~~Confidential~~



**DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

NOV 7 2013

Ref: 06-A-0557

MEMORANDUM FOR: USD POLICY

(ATTN: (b)(6))

SUBJECT: Freedom of Information Act (FOIA) Appeal – Mr. Michael Evans

Attached are copies of the appeal, initial FOIA request, and the responsive documents to the case referenced above. In order for the Deputy Director, Administration and Management to fulfill responsibilities as the appellate authority, we ask that you do the following:

On July 27, 2009, Policy completed an appellate review of the attached document. This document was initially withheld in its entirety. During this review, Policy recommended that some information be released on appeal. Due to the passage of time, we are asking that Policy take a second look at this responsive document. The information shaded in gray was recommended by Policy for continued denial. If Policy concurs with their first appellate review, we are asking that your office complete a new form 472, citing the FOIA exemption(s) invoked, and provide your rationale for continued denial.

Please forward your response to this office by November 22, 2013. You may direct any questions concerning this appeal to Ms. Danaeka Spear at (b)(6) or

(b)(6)

Sincerely,

(b)(6)

for James P. Hogan
Chief

Attachments:

- (1): Mr. Evan's FOIA Appeal
- (2): Mr. Evan's initial FOIA request
- (3): Policy's 2009 appellate 472
- (4): Responsive Document

~~Confidential~~

UNCLASSIFIED WHEN SEPARATED FROM ENCLOSURES

FOI/PA CASE ASSIGNMENT WORKSHEET

Case No: 06-14-2027-A1

ACTION ASSIGNED TO _____ TEAM: A B C PMB REVIEWER CARD
 TYPE REQUEST: Appeal Commercial Educational News/Media NonCom/Scientific Other
 EXPEDITED RESPONSE REQUESTED _____ GRANT? Y N DCN CHECK _____
 UP-FRONT DOCUMENT SEARCH _____ DATE RECEIVED: 07-11-2007
 REMARKS:

CLOSED WITHDRAWN E-FOIA REPLY

(ASBCA) Armed Services Board of Contract Appeals
(AT&L) Acquisition, Technology, & Logistics
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(USUHS) Uniformed Services University of Health Sciences
(PFFA) Pentagon Force Protection Agency
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(EA) East Asia
(S&SEA) South and Southeast Asia
(ISA) International Security Affairs
(AFR) Africa
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Partnership Strategies
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Crisis Management & Defense Support for Civil Authorities
(HD) Homeland Def.
(HSI) Homeland Security Integration
(WHA) Western Hemisphere Affairs
(PDUSDP) Policy Director
(FT&R) Forces Transformation & Resources
(PP) Policy Planning
(STRAT CAP) Strategic Capabilities
Support for Public Diplomacy
(SO/LIC) Special Operations and Low Intensity Conflict
Special Operations
(STAB OPS) Stability Operations
(WHMO) W. H. Military Office

(WHS) Washington Headquarters Service
(A&P) Acquisition & Procurement
(ESD) Executive Services Directorate
(GC) General Counsel
(HRD) Human Resources
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No Nexus Response
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Verification Response

ARMY	DTRA
NAVY	NGA
USAF	NGB
USMC	NSA
	NSC
CENTCOM	SHAPE
EUCOM	TRICARE
JFCOM	
NORTHCOM	
PACOM	CIA
SOCOM	C. GUARD
SOUTHCOM	DEA
STRATCOM	DHS
TRANSCOM	DOE
	DOJ
DCAA	DOL
DCMA	FAA
DECA	FBI
DFAS	FEMA
DIA	GSA
DISA	NARA
DLA	NPRC
DoDIG	OPM
DoDEA	SEC. SVC.
DSS	STATE
DTIC	VA

The National Security Archive

The George Washington University
Gelman Library, Suite 701
2130 H Street, N.W.
Washington, D.C. 20037

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Fax: 202/994-7005
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<http://www.nsarchive.org>

Freedom of Information Act Appeal

March 29, 2007

James Hogan
Chief, Policy, Appeals and Litigation Branch
Office of Freedom of Information
1155 Defense Pentagon
Washington, D.C. 20301-1155

Re: 06-F-2027 / 20060924DOD145

Dear Mr. Hogan:

This letter is an administrative appeal under the Freedom of Information Act, regarding a FOIA request submitted on June 20, 2006 for records concerned with a late November 2001 meeting between Secretary Rumsfeld and Gen. Tommy Franks at CentCom headquarters, including the secretary's talking points for the meeting. In a letter dated November 20, 2006, Will Kammer informed me that DOD had located a responsive record and was withholding it in its entirety under exemptions (b)(1) and (b)(5).

With regard to material withheld under exemption (b)(1), I argue that withheld text can and should be released for two reasons. First, the U.S. public needs this information in order to understand and assess the operations of the U.S. government. Second, considerable information on related issues is already in the public domain. Regarding point one, the news media, congress, and the public at large are currently and will continue for some time to closely scrutinize the government's decision to initiate war with Iraq, and the assumptions that underlay war planning. In order to do so, they need information about high-level decision-making, including the crucial interaction between the secretary of defense and his chief commander. Regarding point two, the very high level of interest in these matters has led to the publication of a considerable number of books and articles discussing the government's planning for war, including precise details about how plans were promulgated and revised from late 2001 through March 2003. Disclosure of the document that has been withheld by the Defense Department would contribute to the quality of this debate by providing the public with accurate information about these issues.

In regard to information withheld under exemption (b)(5), I ask that you review the withheld material again, noting that documents withheld under this exemption can be released at your discretion. There has been considerable public criticism about the department's war planning process, focusing on such questions as whether the views of those with combat and regional experience were granted due consideration. Maximum transparency about this process will serve the interests of the American people by ensuring that any errors in judgment are not repeated in the future.

We contend that over-application of the (b)(5) exemption prevents the public from obtaining access to information on the actions and deliberations of the government, and is therefore counter to the intent of the Freedom of Information Act. At minimum, please release all factual portions of responsive documents. Factual and post-decisional information, unless inextricably intertwined with other text, is not protected under (b)(5) and must be released. Since the Rumsfeld/Franks meeting led to the latter's revamping of war plans so as to prepare for various contingencies, such as the initiation of conflict with reduced force levels, it seems probable that the document contains at least some factual and post-decisional information that is not subject to this exemption.

Mr. Kammer's letter indicated that the department was unable to locate the secretary's talking points among the records of the Joint Staff or NESAA, but would search further if provided with additional information regarding date, title, author, recipient, subject matter, and description. According to secondary sources, the talking points, which were drafted around the late November 2001 date of the Rumsfeld/Franks meeting, were prepared by Donald Rumsfeld, Paul Wolfowitz, and Douglas Feith, and their subject matter included the viability of Saddam Hussein's regime, its vulnerabilities, the likelihood of its overthrow, contingencies for attacking Iraq with limited forces, and anti-regime operations by special forces and Kurdish insurgents. The document therefore might well be found among records or retired records of the secretary, the deputy secretary, or the office of the under secretary for policy.

Thank you for your attention to my request. I look forward to receiving your response.

Sincerely,

(b)(6)

Joyce Battle
Analyst

Hill, Kimberly CIV WHS/ESD

From: Joyce Battle (b)(6)
Sent: Tuesday, June 20, 2006 4:04 PM
To: DFOISR, DOD/DFOISR/WHS
Subject: Freedom of Information Act Request

Submitted: [20/Jun/2006:16:00:02]

Name: Joyce Battle
Organization: National Security Archive
E-mail: (b)(6)
Phone number: (b)(6)

Address 1: Gelman Library, Suite 701
Address 2: 2130 H St. NW
City: Washington
State: DC
ZIP Code: 20037
Country:

Requester Control Number: 20060924DOD145

Request Message:

1. All agenda, emails, memos, minutes, or notes prepared for or resulting from a late November 2001 (around November 26) meeting between Secretary Rumsfeld and Gen. Tommy Franks at CENTCOM headquarters in Tampa to discuss Iraq.
2. Secretary Rumsfeld's talking points for the meeting.

This request has also been submitted to CENTCOM.

Willing To Pay: \$ 100

--

Submitted via <http://www.defenselink.mil/pubs/foi/foiarequest.html>

Sender Information:

REMOTE_HOST: xrel.atl.xpc-mii.net
REMOTE_ADDR: 63.111.30.89
Browser: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.1; SV1; .NET CLR 1.1.4322)
E-mail: (b)(6)



**DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

Ref: 06-F-2027

NOV 20 2008

Ms. Joyce Battle
The National Security Archive
Gelman Library, Suite 701
2130 H Street, N.W.
Washington, DC 20037

Dear Ms. Battle:

This is in response to your Freedom of Information Act (FOIA) request dated June 20, 2006, Archive # 20060924DOD145, which was received in this Office on June 21, 2006, which asked for documents dealing with, "1. All agenda, emails, memos, minutes, or notes prepared for or resulting from a late November 2001 (around November 26) meeting between Secretary Rumsfeld and Gen. Tommy Franks at CENTCOM headquarters in Tampa to discuss Iraq. 2. Secretary Rumsfeld's talking points for the meeting."

Mr. John Triglio, Director, Office of Near Eastern and South Asian Affairs (NESAA), has determined that one responsive document totaling 5 pages in its entirety, is exempt from release because it is currently and properly classified in accordance with Executive Order 12958, as amended, Section 1.4 (a), concerning military plans, weapon systems or operations, and Section 1.4 (d) concerning foreign relations or foreign activities of the United States, including confidential sources. Additionally, it has been determined that some of the information must be withheld to protect information of a predecisional, deliberative nature which, if released, could reasonably be expected to interfere with the government's deliberative process. Accordingly, this information is denied pursuant to 5 USC 552 (b)(1) and (b)(5).

Please be advised that, based on the information provided, we could locate no responsive records for the second part of your request in the Office of the Joint Staff (JS) or NESAA. This Office will conduct another search if you can provide additional information which may assist us in locating the requested material [such as date, title or name, author, recipient, and subject matter of the record sought, and the nature of the case/file designations or descriptions for the records sought].

If you are not satisfied with this action you may submit an appeal to James Hogan, Chief, Policy, Appeals, and Litigation Branch at the above address. Your appeal letter should be postmarked within 60 calendar days of the date of this letter, should cite case number 06-F-2027 and should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

(b)(6)

for

Will Kammer
Chief

~~TOP SECRET~~



DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

20 MAY 2009

Ref: 06-A-2027

MEMORANDUM FOR: JOINT STAFF

ATTN: (b)(6)

SUBJECT: Freedom of Information Act (FOIA) Appeal – Joyce Battle

Attached is an appeal of the denial of information in the case referenced above. In order for the Deputy Director, Administration and Management to fulfill responsibilities as the appellate authority, the following is requested:

Conduct a review of the attached document, previously withheld from release. This office along with the Office of the Under Secretary of Defense for Policy (OUSDP) has conducted an appellate review of this document and has determined that only **the bracketed information should remain withheld from release**. OUSDP has recommended that your office review the attached document prior to release. If you do not agree with our recommendation, then bracket the information and cite the FOIA exemption(s) invoked for any information that your office wants to continue to withhold from release along with your rationale for denial.

Forward your response to this office within 20 business days from the date of this memo. Our action officer is (b)(6) at (b)(6) or

(b)(6)

(b)(6)

James P. Hogan
Chief

Attachments:
As stated

~~TOP SECRET~~

UNCLASSIFIED WHEN SEPARATED FROM ENCLOSURES



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DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

20 MAY 2009

Ref: 06-A-2027

Received

MEMORANDUM FOR: U.S. CENTRAL COMMAND
CCJ6-RD (FOIA)
7115 SOUTH BOUNDARY BLVD
MACDILL AFB, FL 33621-5510

JUL 16 2009

USCENTCOM FOIA
Case # 09-0185C

SUBJECT: Freedom of Information Act (FOIA) Appeal – Joyce Battle

Attached is an appeal of the denial of information in the case referenced above. In order for the Deputy Director, Administration and Management to fulfill responsibilities as the appellate authority, the following is requested:

Conduct a review of the attached document, previously withheld from release. This office along with the Office of the Under Secretary of Defense for Policy (OUSDP) has conducted an appellate review of this document and has determined that only the **bracketed information should remain withheld from release**. OUSDP has recommended that your office review the attached document prior to release. If you do not agree with our recommendation, then bracket the information and cite the FOIA exemption(s) invoked for any information that your office wants to continue to withhold from release along with your rationale for denial.

Forward your response to this office within 20 business days from the date of this memo. Our action officer is (b)(6) at (b)(6) or

(b)(6)

(b)(6)

For
James P. Hogan
Chief

Attachments:
As stated

~~TOP SECRET~~

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~~TOP SECRET~~

DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

Action
Request

31 MAR 2009

Ref: 06-A-2027

MEMORANDUM FOR: USD POLICY EXECUTIVE SECRETARIAT
ATTN: (b)(6)

SUBJECT: Freedom of Information Act (FOIA) Appeal – Joyce Battle

Attached is an appeal of the denial of information in the case referenced above. In order for the Deputy Director, Administration and Management to fulfill the appellate authority responsibilities, the following is requested:

Conduct a review of the attached document, which was initially withheld in its entirety. We have attached the previous decision (Form 472) from Near Eastern and South Asian Affairs, dated August 14, 2006. This office recommends a full release of the attached document based on the United States Attorney General's new FOIA policy of **transparency and open government** issued on March 19, 2009. Bracket the information and cite the FOIA exemption(s) invoked for any information that your office wants to continue to withhold from release along with your rationale for denial. If portions of the attached document meet the standard of FOIA exemptions (b)(1) and (b)(5), the FOIA requires your office to take reasonable steps to segregate and release nonexempt information.

Forward your response to this office 20 business days from the date of this memo. Our action officer is (b)(6) at (b)(6) or (b)(6).

(b)(6)

James P. Hogan
Chief

Attachments:
As stated

~~TOP SECRET~~

UNCLASSIFIED WHEN SEPARATED FROM ENCLOSURES

~~TOP SECRET~~



DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

MAY 4 2011

Ref: 06-A-2027

MEMORANDUM FOR USD POLICY EXECUTIVE SECRETARIAT

ATTN: (b)(6)

SUBJECT: Freedom of Information Act (FOIA) Appeal – Ms. Joyce Battle

The attached document is responsive to the case referenced above. During a appellate review of this document, your office determined that additional information could be released and that only DOD/Policy equities concerning Exemption 2 should remain withheld. Since the responsive documents originated with Policy and your office did not cite Exemption 1 for withholdings, please specify whether you deem this document to still be classified.

Please forward your response to this office 10 business days from the date of this memo. Our action officer is Danaeka Spear at (b)(6) or

(b)(6)

(b)(6)

JP

James P. Hogan
Chief

Attachments:

As stated

~~TOP SECRET~~

UNCLASSIFIED WHEN SEPARATED FROM ENCLOSURES

~~TOP SECRET~~



**DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

MAR 22 2013

Ref: 06-A-2027

MEMORANDUM FOR USD POLICY EXECUTIVE SECRETARIAT

ATTN: (b)(6)

SUBJECT: Freedom of Information Act (FOIA) Appeal – Ms. Joyce Battle

Enclosed is an appeal of the denial of information and the adequacy of search in the case referenced above. In response to this appeal, this office conducted a second search for records responsive to this request. During this search, the enclosed documents were located. In order for the Deputy Director, Administration and Management to fulfill responsibilities as the appellate authority, we ask that do the following:

Please conduct a review of the newly located documents and provide your recommendations as to the release on appeal. For any information which you recommend remain exempt, enclose that information in brackets and send the bracketed documents to this office. Cite the FOIA exemption(s) invoked for any recommended withholding and provide your rationale for denial, along with any additional comments which will assist in evaluating the appeal.

Please forward your response to this office by April 12, 2013. You may direct any questions concerning this appeal to Ms. Danaeka Spear at (b)(6) or

(b)(6)

Sincerely,

(b)(6)

James P. Hogan
Chief

Attachments:

- (1): Ms. Battle's FOIA Appeal
- (2): Ms. Battle's initial FOIA request
- (3): Responsive documents

~~TOP SECRET~~

(Unclassified when separated from attachments)

~~TOP SECRET~~



DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

MAR 22 2013

Ref: 06-A-2027

MEMORANDUM FOR JOINT STAFF
ATTN: DECLASSIFICATION BRANCH

SUBJECT: Freedom of Information Act (FOIA) Appeal – Ms. Joyce Battle

Enclosed is an appeal of the denial of information and the adequacy of search in the case referenced above. In response to this appeal, this office conducted a second search for records responsive to this request. During this search, the enclosed documents were located. In order for the Deputy Director, Administration and Management to fulfill responsibilities as the appellate authority, we ask that do the following:

Please conduct a review of the newly located documents and provide your recommendations as to the release on appeal. For any information which you recommend remain exempt, enclose that information in brackets and send the bracketed documents to this office. Cite the FOIA exemption(s) invoked for any recommended withholding and provide your rationale for denial, along with any additional comments which will assist in evaluating the appeal.

In addition to reviewing the newly located documents, due to the passage of time, this office is asking the Joint Staff to review the information previously denied to the requester. We are enclosing your 2009 appellate review of the previously denied information.

Please forward your response to this office by April 12, 2013. You may direct any questions concerning this appeal to Ms. Danaeka Spear at (b)(6) or

(b)(6)

Sincerely,

(b)(6)

James P. Hogan
Chief

Attachments:

- (1): Ms. Battle's FOIA Appeal
- (2): Ms. Battle's initial FOIA request
- (3): Newly Located Responsive documents
- (4): JS 2009 Appellate Review
- (5): Previously Denied Responsive document

~~TOP SECRET~~

(Unclassified when separated from attachments)

~~TOP SECRET~~



**DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

AUG 11 2014

Ref: 06-A-2027

Archive # 20060924DOD145

MEMORANDUM FOR USD POLICY

ATTN: (b)(6)

SUBJECT: Freedom of Information Act (FOIA) Appeal – Ms. Joyce Battle

Attached are copies of the FOIA request appeal and Joint Staff review of the case referenced above. JS conducted a review of the newly located documents and recommends a partial release. In order for the Deputy Director, Administration and Management to fulfill its responsibilities as the appellate authority, we ask that you do the following:

Please conduct a review of the information in the attached responsive documents and provide your recommendations as to the release. For any information which you determine exempt, enclose that information in red brackets and send the bracketed documents to this office. Cite the FOIA exemption(s) invoked for any recommended withholdings and provide your rationale for denial.

Forward your response to this office by August 22, 2014. Our action officer is Donald Nicholson, (b)(6) or at (b)(6)

Sincerely,

(b)(6)

for

James P. Hogan
Chief

Attachments:

- (1) FOIA Appeal
- (2) Initial FOIA Request
- (3) JS Appellate Determination on newly located documents
- (4) Responsive Documents

~~TOP SECRET~~

(Unclassified when separated from attachments)

The National Security Archive

The George Washington University
Gelman Library, Suite 701
2130 H Street, N.W.
Washington, D.C. 20037



Phone: 202.994.7000
Fax: 202.994.7005
nsarchive@gwu.edu
<http://www.nsarchive.org>

Wednesday, August 29, 2007

James Hogan
Policy, Appeals, and Litigation Branch
Department of Defense
Office of Freedom of Information
1155 Defense Pentagon
Washington, DC 20301-1155

Re: FOIA Administrative Appeal
Case Control No. 06-F-2320 / Archive No. 20061267DOD208

Dear Mr. Hogan:

This letter is an administrative appeal regarding a Freedom of Information Act (FOIA) request submitted on July 27, 2006. The request was for the October 27, 2003 memorandum sent by Douglas J. Feith, Undersecretary of Defense for Policy, to senators Pat Roberts and Jay Rockefeller. In his July 25, 2007 letter, Will Kanwisher stated that the Department located two responsive documents and was withholding them in their entirety under exemptions (b)(1) and (b)(5).

I contend that information within these documents is unlikely to harm national security interests or the foreign policy of the United States because it concerns intelligence on the former Saddam Hussein regime no longer in power. Moreover, the public interest regarding this documents exists within the commentary and analysis provided by the documents more so than in its specific sources.

Further, large excerpts from these documents have already been made public through a November 24, 2003 article in the enclosed *Weekly Standard* article. This same article was publicly commented on by Vice President Richard Cheney in a January 9, 2004 interview with the *Rocky Mountain News* in which he commented on the topic of al-Qaeda's relationship with the Hussein government by stating:

"One place you ought to go look is an article that Stephen Hayes did in the *Weekly Standard* here a few weeks ago, that goes through and lays out in some detail, based on an assessment that was done by the Department of Defense and forwarded to the Senate Intelligence Committee some weeks ago. That's your best source of information."

Again, in a January 11, 2006 interview, Vice President Cheney publicly confirmed the validity of the

◆-♥-★

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Fax: 202.994.7005
nsarchiv@gwu.edu
<http://www.nsarchive.org>

of the federal government have recognized the public's interest in this document and its usefulness in informing the public concerning terrorist activities.

In regard to material withheld under (b)(5), I contend that this exemption prevents the public from obtaining access to documentation regarding the actions and deliberations of the government and is therefore counter to the intent of the Freedom of Information Act. As we understand the application of exemption (b)(5), information is exempt only if it is both "predecisional" and "deliberative." *Petroleum Info. Corp. v. Dep't of the Interior*, 976 F.2d 1429, 1434 (D.C. Cir. 1992). "A document is predecisional if it was 'prepared in order to assist an agency decision maker in arriving at his decision,' rather than to support a decision already made." *Id.* In order to withhold materials as predecisional deliberative process materials under the (b)(5) exemption, the agency must be able to identify a specific agency decision, and the role those documents played in coming to that final decision. See *Paisley v. CIA*, 712 F.2d 686, 698 (D.C. Cir 1983) and 724 F.2d 201 (D.C. Cir 1984). The court held, "to approve exemption of a document as predecisional, a court must be able 'to pinpoint an agency decision or policy to which the document contributed.'"

In addition, material is deliberative only if it "reflects the give-and-take of the consultative process." *Petroleum Info. Corp.*, 976 F.2d at 1434 (citations omitted). "The privilege is designed to protect agency policy-oriented judgments and the processes by which policies are formulated, rather than 'purely factual, investigative matters.'" Factual, post-decisional information, unless inextricably intertwined with other information, is not protected under the fifth exemption and must be released. *National Ass'n of Home Builders v. Norton*, 309 F.3d 26, 39 (D.C. Cir. 2002) (citing *Environmental Protection Agency v. Mink*, 410 U.S. 73, 89 (1973)) (additional citations omitted). In fact, the D.C. Circuit has drawn an explicit distinction "between factual information, which 'generally must be disclosed,' and 'materials embodying officials' opinions,' which are 'ordinarily exempt.'" *National Ass'n of Home Builders*, 309 F.3d at 39; see *Charles v. Dep't of Navy*, 893 F.2d 390, 392 (D.C. Cir. 1990).

I ask that you, at a minimum, review these documents again and release all reasonably segregable information from these documents.

Sincerely yours,

Roger Strother

Enclosure 25

- November 24, 2003 *Weekly Standard* article
- July 8, 2004 Senate Congressional Record containing excerpt of VP Cheney's *Rocky Mountain News* interview.
- January 1, 2006 interview of VP Cheney by Tony Snow of FOX News

An Independent not-for-profit research institute and library located at the George Washington University, the Archive collects and publishes declassified documents obtained through the Freedom of Information Act. Publication royalties and tax deductible contributions through The National Security Archive Fund, Inc. underwrite the Archive's Budget.

Henshall, Dave CIV WHS/ESD

From: Roger Strother (b)(6)
Sent: Thursday, July 27, 2006 10:13 AM
To: DFOISR, DOD/DFOISR/WHS
Subject: Freedom of Information Act Request

Submitted: [27/Jul/2006:10:12:16]

Name: Roger Strother
Organization: National Security Archive
E-mail: f(b)(6)
Phone number: (b)(6)

Address 1: National Security Archive/Gelman Library
Address 2: 2130 H St. NW
City: Washington
State: DC
ZIP Code: 20037
Country:

Requester Control Number: 20061267DOD208

Request Message:

National Security Archive # 20061267DOD208 / The October 27, 2003 memorandum sent by Douglas J. Feith, Undersecretary of Defense for Policy, to senators Pat Roberts and Jay Rockefeller in response to a request by the US Senate Intelligence Committee in preparation of the committee's report on prewar intelligence assessments on Iraq. The memorandum is about 16 pages long.

Willing To Pay: \$ 100.00

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Submitted via <http://www.defenselink.mil/pubs/foi/foiarequest.html>

Sender Information:

REMOTE_HOST: vwsdp1.ttn.xpc-mii.net
REMOTE_ADDR: 65.206.60.105
Browser: Mozilla/4.0 (compatible; MSIE 7.0; Windows NT 5.1; SV1; .NET CLR 1.1.4322)
E-mail: f(b)(6)

**FREEDOM OF INFORMATION ACT REQUEST INTERIM RESPONSE
(COMPLEX REQUESTS)**

1. DATE OF REQUEST	2. DATE RECEIVED	3. CASE WORKLOAD	4. CASE NUMBER
7-27-2006	7-27-2006	2,275	06-F-2320

This is an interim response to your Freedom of Information Act (FOIA) request, received in this office on the above date. Your request has been assigned the case number indicated above, and is being processed as quickly as possible in accordance with procedural requirements promulgated in DoD Regulation 5400.7-R at 32 CFR 286. As currently worded, your request may take considerable time to complete. The actual processing time will depend upon its complexity, whether it involves sensitive records, voluminous records, extensive searches, consultation among DoD components or other agencies, and our administrative workload which is listed in block 3 above.

If you have any questions or would like to discuss how to limit your request in order to speed up the processing time, please call:

(b)(6)

and ask for

(b)(6)

Office of Freedom of Information and Security Review
Room 2C757, 1155 Defense Pentagon, Washington, DC 20301-1155



**DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

JUL 25 2007

Ref: 06-F-2320
20061267DOD208

Mr. Roger Strother
The National Security Archive
Gelman Library, Suite 701
2130 H Street, N.W.
Washington, DC 20037

Dear Mr. Strother:

This is in response to your July 27, 2006 Freedom of Information Act (FOIA) request seeking "The October 27, 2003 memorandum sent by Douglas J. Feith, Undersecretary of Defense for Policy, to senators Pat Roberts and Jay Rockefeller in response to a request by the US Senate Intelligence Committee in preparation of the committee's in report on prewar intelligence assessments in Iraq." We received your request on the same day.

Mr. Michael H. Mobbs, the Staff Director and Special Advisor to the Under Secretary of Defense Policy, an Initial Denial Authority determined that the two responsive documents, one totaling eight pages and one totaling five pages exempt from release in their entirety because they are currently and properly classified in accordance with Executive Order 12958, as amended. Specifically, Section 1.4 (b) concerning foreign government information, and Section 1.4 (d) concerning foreign relations or foreign activities of the United States, including confidential sources. This information is also exempt from release pursuant to 5 U.S.C. § 552(b)(5), which pertains to certain inter- or intra-agency communications protected by the deliberative process privilege. Accordingly, this information is denied pursuant to 5 USC § 552 (b)(1) and (b)(5).

If you are dissatisfied with this action you may submit an appeal to this Office, by writing to the Mr. James Hogan, Chief, Policy, Appeals and Litigation Branch, Office of Freedom of Information, 1155 Defense Pentagon, Washington, D.C. 20301-1155. Your appeal letter should be postmarked within 60 calendar days of the date of this letter and should cite case number 06-F-2320.

Sincerely,

(b)(6)

W Will Kammer
Chief



DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

Ref: 06-A-2320

19 SEP 2007

MEMORANDUM FOR

(b)(3) 50 USC § 3605

DEFENSE INTELLIGENCE AGENCY
ATTN: DAN-1A RM E4-234
WASHINGTON, DC 20340-5100

(b)(3) 50 USC § 3507; (b)(3) 50
USC § 3605

(b)(3) 50 USC § 3507

FEDERAL BUREAU OF INVESTIGATION
RECORDS INFORMATION DISSEMINATION SECTION
935 PENNSYLVANIA AVE., NW
WASHINGTON, DC 20535

SUBJECT: Freedom of Information Act (FOIA) Request – Mr. Roger Strother

Attached is Mr. Strother's August 29, 2007, FOIA appeal and documents responsive to his July 27, 2006, FOIA request. The Office of the Secretary of Defense denied these documents in their entirety in response to the initial request. During appellate review of this case, it was decided to obtain release recommendations from the originators of the information.

Please review the information within the attached documents and provide your release recommendations back to our office. If you have any questions, please contact me at (b)(6)

(b)(6)

or (b)(6)

(b)(6)

James P. Hogan
Chief, FOIA Policy, Appeals, and Litigation

Attachments:
As stated

UNCLASSIFIED WHEN SEPARATED
FROM CLASSIFIED ENCLOSURE

~~TOP SECRET~~

~~///HCS/ISIG/OC, NE~~

The National Security Archive

The George Washington University
Gelman Library, Suite 701
2130 H Street, N.W.
Washington, D.C. 20037

06-A-2415 A1
Phone: 202/994-7000
Fax: 202/994-7005
nsarchiv@gwu.edu
www.nsarchive.org

September 15, 2008

James Hogan, Chief, Policy, Appeals and Litigation Branch
Office of Freedom of Information
1155 Defense Pentagon
Washington, D.C. 20301-1155

RE: FOIA Appeal
National Security Archive Number **20061383DOD229**
Department of Defense Number **06-F-2415**

Dear Mr. Hogan:

This letter constitutes an administrative appeal under the Freedom of Information Act, 5 U.S.C. Sec. 552a. It is in response to a determination by the Department of Defense on a Freedom of Information Act (FOIA) request originally filed on August 8, 2006. By letter dated July 18, 2008, the Department of Defense withheld two documents under exemptions (b)(1.4(b), 1.4(c), 1.4(d)), (b)(3), (b)(5), (b)(6) of the FOIA.

My initial request asked for documents related to the following five meetings:

- NSC Deputies Meeting on or around April 19, 2001
- NSC Deputies Meeting on or around April 30, 2001
- NSC Deputies Meeting on or around June 29, 2001
- Counterterrorism Security Group (CSG) Meeting on or around June 22, 2001
- NSC Principals Meeting on or around September 4, 2001

These National Security Council and Counterterrorism Security Group meetings each specifically relate to terrorism, U.S. counterterrorism policy, and events relevant to September 11, 2001 as they are each specifically referenced in the official report released by the 9/11 Commission. [See Deputies Meetings April 19, 2001 and April 30, 2001 on page 510 of the 9/11 Commission Report, NSC Principals Meeting on Sept. 4 2001 on page 212 and CSG Meeting on June 22, 2001 on page 534 of the 9/11 Commission Report.]

I ask the Appeals and Litigation Branch at the Department of Defense to reconsider this initial determination. Although I understand the sensitivity of these requested documents, the overwhelming public interest in these materials and the fact that the fundamental discussion in many of these documents has already been released to the public through the 9/11 Commission Report provide strong justification for further review and release.

These documents tell the story of how the U.S. government interpreted and responded to the growing threat of Islamist terrorists and are of outstanding interest to the public. Furthermore, I would argue that the use of the (b)(1) exemption to withhold documents such as these that would elucidate the actions or inactions of the U.S. government leading up to 9/11 is inappropriate considering it is the duty of the U.S. government to be transparent regarding such a matter of public safety. Classification must not be used as a barrier to public access to primary government materials that would serve to empower the public debate and heighten government accountability on these issues.

Additionally, all of these documents predate 9/11. I ask the Appeals and Litigation Branch to take into consideration the extraordinary changes in geopolitical circumstances surrounding issues related to terrorism

An Independent non-governmental research institute and library located at the George Washington University, the Archive collects and publishes declassified documents obtained through the Freedom of Information Act. Publication royalties and tax deductible contributions through The National Security Archive Fund, Inc. underwrite the Archive's Budget.

and al-Qaeda that have taken place since the creation of these documents and the policy decisions they describe. The continued, present-day national security sensitivity of policy documents from early 2001 regarding al-Qaeda is questionable since U.S. counterterrorism policy related to al-Qaeda and al-Qaeda itself has been completely altered since these documents were created. I ask that the Appeals and Litigation Branch keep in mind the public benefit in their release and the diminutive risk to actual national security the release of these documents would pose.

The U.S. government has consistently recognized the extraordinary public right to documents on its actions relating to 9/11 and has rightfully made exceptional public releases of pertinent previously classified documents in an effort to be accountable to the public. Documents that have almost without exception been consistently withheld under the (b)(1) exemption of the FOIA have been cleared for release in light of the distinctive public right to documentation on government action related to 9/11. For examples of this dedication to public access regarding 9/11 see the April 10, 2004 release of the August 6, 2001 Presidential Daily Brief by the Central Intelligence Agency and multiple other releases by intelligence agencies found in the 9/11 Commission Report.

With respect to the material withheld on the basis of (b)(5), I ask that documents be re-assessed balancing the two competing interests in determining whether or not to release these documents - the benefit of release to public debate vs. the interference release may cause to the government's deliberative process. In the case of these specific documents it is clear that significantly more harm is done in continued withholding than any injury to policy deliberation that may result from release. Regarding such a matter of overwhelming importance to the general public and public safety, the government does not have a right to shield its policy decisions as deliberative material, as the public has the right to know what immediate action the National Security Council, the Secretary of Defense and the Department of Defense undertook in order to protect the American public. Certainly the Department of Defense feels a sense of duty to be responsive to the public's need for information regarding an issue such as 9/11. Do not withhold information under the (b)(5) exemption because the type of document requested indicates it can be withheld under the (b)(5) exemption. As Mr. Hogan's office is aware, the (b)(5) exemption is discretionary, and the public trusts the government will use it sparingly and only in cases where specific harm to a deliberative process can be identified, where the public's interest in these activities is outweighed by the need to protect the process and finally, where there is actual harm in release.

The Department of Defense has previously released material that clarify the 9/11 policy debate and discussion regarding responding to the attacks. Please see Stephen Cambone's notes from the afternoon of 9/11 that were released to [outragedmoderates.org](http://www.outragedmoderates.org) (available at <http://www.outragedmoderates.org/2006/02/dod-staffers-notes-from-911-obtained.html>) I ask that materials related to these NSC and CSG meetings also be released in order to clarify policy.

Additionally I ask the Appeals and Litigation Branch to consider that an explicit intent of the Freedom of Information Act is to provide public access to materials that document the actions of government officials. As this FOIA request concerns a topic of overwhelming public interest and concern, I ask that you consider the example that may be afforded by the maximum release of this information, as it readily affects public safety. It is important to keep in mind that over application of the (b)(5) exemption prevents the public from accessing documentation regarding the actions and deliberations of their government and is counter to the intent of the Freedom of Information Act. At a minimum, please review these records in the appeal process to release factual portions found responsive to the request. Factual, post-decisional information, unless inextricably intertwined with other information, is not protected under the fifth exemption and must be released. Please see the Supreme Court's ruling in *EPA v. Mink*, 410 U.S. 73. Further, the FOIA requires release of "any reasonably segregable portion of the record" "after deletion of the portions which are exempt." See 5 U.S.C. Sec. 552 (b). It seems certain that there is releasable material in at least some portion of the 64 pages of records denied in their entirety.

With respect to the material withheld on the basis of (b)(6), I ask that, at a minimum, you review these records in the appeal process to release the segregable portions that would not be considered an unwarranted invasion of privacy. The FOIA requires release of "any reasonably segregable portion of the record" "after deletion of the portions which are exempt." See 5 U.S.C. Sec. 552 (b). In this case, since the documents sought pertain directly background materials on the events of September 11, 2001, exemption b(6) only applies when disclosure would result in a "clearly unwarranted" invasion of privacy that would outweigh the public interest. It remains difficult to conceive of a subject of greater public interest than September 11, 2001. See also Department of State vs. Ray, 502 U.S. 164 (1991) which clarified that disclosure of personal information without identifying details "constitutes only a de minimis invasion of privacy." Such a limited privacy invasion, if one even remains after minimal identifying redactions, carries little weight when balanced against the public interest in disclosure that is recognized by exemption b(6).

Lastly, in regards to the material withheld under Exemption (b)(3), in this instance, 50 U.S.C. 403 (g) Section 6 of the CIA Act of 1949 which provides for the withholding of CIA functions and information, I request that the Appeals and Litigation Branch consider that the CIA Act of 1949 does not allow for the wholesale classification of the role of the CIA in U.S. foreign policy. Only very specific operational duties are exempt from disclosure as such exposure would harm the functioning of the Agency and perhaps even jeopardize CIA officials. The withholding of such detailed information is understandable and commendable. However, it is doubtful that in general NSC and CSG policy documents that such a level of operational detail would be documented. General information regarding the role of the CIA in pre-9/11 counterterrorism policy designed to combat the threat of al-Qaeda is not operational information, it is policy information, and therefore not subject to withholding under the CIA Act of 1949 and therefore the (b)(3) exemption of the FOIA.

In conclusion, it seems unlikely that the release of this information would engender any threat to the national security of the United States or the conduct of its counterterrorism missions that would outweigh the obvious public benefit of its release. Actions taken by the government to answer to the events of 9/11 have largely concluded and are at this point more historical than operational or deliberative policies. Maximum disclosure of information would greatly serve the public interest by increasing public understanding of these critical policy decisions on public safety.

I look forward to receiving your decision on this appeal. If you have any questions please contact me at (202) 994-7000 or at (b)(6)

Sincerely,

(b)(6)

Barbara Elias
Research Fellow

by MEC

06-F-2174

Henshall, Dave CIV WHS/ESD

From: Barbara Elias (b)(6)
Sent: Tuesday, August 08, 2006 11:40 AM
To: DFOISR, DOD/DFOISR/WHS
Subject: Freedom of Information Act Request

Submitted: [08/Aug/2006:11:39:44]

Name: Barbara Elias
Organization: The National Security Archive
E-mail: (b)(6)
Phone num: (b)(6)

Address 1: 2130 H St. NW - Gelman Library
Address 2: Suite 701 - National Security Archive
City: Washington
State: DC
ZIP Code: 20037
Country: United States

Requester Control Number: 20061383DOD229

Request Message:

RE: 20061383DOD229

All documents, including memoranda, briefing papers, memoranda of conversation, NSC memoranda, briefing memoranda, minutes, e-mails and notes relating in whole or in part to the following National Security Council meetings:

- NSC Deputies Meeting on or around April 19, 2001 — N2
- NSC Deputies Meeting on or around April 30, 2001 ✓
- NSC Deputies Meeting on or around June 29, 2001 ✓
- Counterterrorism Security Group (CSG) Meeting on or around June 22, 2001. — N2
- NSC Principals Meeting on or around September 4, 2001. — N2

Willing To Pay: \$ 100

Submitted via <http://www.dod.mil/pubs/foi/foiarequest.html>

Sender Information:

REMOTE_HOST: vwsdp1.ttn.xpc-mii.net
REMOTE_ADDR: 65.206.60.105
Browser: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.1; SV1; .NET CLR 1.1.4322)
E-mail: (b)(6)

The National Security Archive

The George Washington University
Gelman Library, Suite 701
2130 H Street, N.W.
Washington, D.C. 20037

Phone: 202/994-7000
Fax: 202/994-7005
nsarchiv@gwu.edu
www.nsarchive.org

August 8, 2006

Submitted Electronically

Re: Request under the FOIA, in reply please refer to Archive # 20061383DOD229

Dear Ms. Finnegan

Pursuant to the Freedom of Information Act (FOIA), I hereby request copies of the following:

All documents, including memoranda, briefing papers, memoranda of conversation, NSC memoranda, briefing memoranda, minutes, e-mails and notes relating in whole or in part to the following National Security Council meetings:

- NSC Deputies Meeting on or around April 19, 2001
- NSC Deputies Meeting on or around April 30, 2001
- NSC Deputies Meeting on or around June 29, 2001
- Counterterrorism Security Group (CSG) Meeting on or around June 22, 2001.
- NSC Principals Meeting on or around September 4, 2001.

If you regard any of these documents as potentially exempt from the FOIA's disclosure requirements, I request that you nonetheless exercise your discretion to disclose them. As the FOIA requires, please release all reasonably segregable nonexempt portions of documents. To permit me to reach an intelligent and informed decision whether or not to file an administrative appeal of any denied material, please describe any withheld records (or portions thereof) and explain the basis for your exemption claims.

As you know, the National Security Archive qualifies for waiver of search and review fees as a representative of the news media. This request is made as part of a scholarly and news research project and not for commercial use. For details on the Archive's research and publication activities, please see our Web site at the address above. Please notify me before incurring photocopying costs over \$100.

To expedite the release of the requested documents, please disclose them on an interim basis as they become available to you, without waiting until all the documents have been processed. If you have any questions regarding the identity of the records, their location, the scope of the request or any other matters, please call me at (202) 994-7000 or e-mail me at [REDACTED]

Sincerely,

Barbara Elias
Freedom of Information Coordinator

From FOIA Request System <(b)(6)>

Sent Tuesday, August 8, 2006 11:39 am

To (b)(6)

Cc

Bcc

Subject Freedom of Information Act Request Confirmation

*** THIS IS AN AUTOMATED MESSAGE. DO NOT REPLY. ***

This is your confirmation that we have received your FOIA request. Please note that it will be date-stamped as "received" on the next official business day.

You provided the following information:

Submitted: [08/Aug/2006:11:39:44]

Name: Barbara Elias

Organization: The National Security Archive

Phone number: (b)(6)

E-mail: (b)(6)

Address 1: 2130 H St. NW - Gelman Library

Address 2: Suite 701 - National Security Archive

City: Washington

State: DC

ZIP Code: 20037

Country: United States

Your Request:

RE: 20061383DOD229

All documents, including memoranda, briefing papers, memoranda of conversation, NSC memoranda, briefing memoranda, minutes, e-mails and notes relating in whole or in part to the following National Security Council meetings:

? NSC Deputies Meeting on or around April 19, 2001

? NSC Deputies Meeting on or around April 30, 2001

? NSC Deputies Meeting on or around June 29, 2001

? Counterterrorism Security Group (CSG) Meeting on or around June 22, 2001.

? NSC Principals Meeting on or around September 4, 2001.

Willing To Pay: \$ 100

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Submitted via <http://www.dod.mil/pubs/foi/foiarequest.html>

Sender Information:

REMOTE_HOST: vwsdp1.ttn.xpc-mil.net

REMOTE_ADDR: 65.206.60.105

Browser: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.1; SV1; .NET CLR 1.1.4322)

E-mail: (b)(6)



**DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

Ref: 06-F-2415

19 JUL 2008

Ms. Barbara Elias
The National Security Archive
Gelman Library, Suite 701
2130 H Street, N.W.
Washington, DC 20037

Dear Ms. Elias:

This is in response to your Freedom of Information Act (FOIA) request dated August 08, 2006, Archive # 20061383DOD229, which was received on August 08, 2006. A copy of your request is attached.

Mr. Daniel Sanborn, Deputy Director, Access Management, National Security Council; Ms. Delores M. Nelson, Information and Privacy Coordinator, Central Intelligence Agency; Ms. Margaret P. Grafeld, Director, Office of IRM Programs and Services, Department of State; Mr. Mark S. Patrick, Chief, Information Management Division, Joint Staff; and Mr. Scott R. Schless, Principal Director, Central Asia, International Security Affairs have all determined that the two documents responsive to your request, totaling 13 pages, are denied in their entirety.

These documents are exempt from release because they are currently and properly classified in accordance with Executive Order 12958, as amended, specifically Section 1.4 (b) concerning foreign government information; Section 1.4 (c) concerning Intelligence activities (including special activities), intelligence sources or methods, or cryptology; and Section 1.4 (d) concerning foreign relations or foreign activities of the United States, including confidential sources. The information denied is also exempt from automatic declassification in accordance with Section 3.3 (b)(6), which could reveal information, including foreign government information, that would seriously and demonstrably impair relations between the United States and a foreign government, or seriously and demonstrably undermine ongoing diplomatic activities of the United States; and Section 3.3 (b)(9), which could violate a statute, treaty, or international agreement. Portions of these document are also denied pursuant to 5 USC § 552(b) (3), which applies to information specifically exempted by a statute establishing particular criteria for withholding. In this instance, the statute is 50 USC § 403(g) Section 6 of the CIA Act of 1949 which provides for the withholding of CIA functions and information. Additionally,

information is exempt from release pursuant to 5 U.S.C. § 552(b)(5), which pertains to certain inter- or intra-agency communications protected by the deliberative process privilege. Finally, further information has been withheld pursuant to 5 U.S.C. § 552(b)(6), which applies to information that, if released, would constitute a clearly unwarranted invasion of the personal privacy of third parties. Accordingly, this information is denied pursuant to 5 USC § 552 (b)(1), (b)(3), (b)(5) and (b)(6).

If you are dissatisfied with this action you may submit an appeal to this Office, by writing to James Hogan, Chief, Policy, Appeals and Litigation Branch, Office of Freedom of Information, 1155 Defense Pentagon, Washington, D.C. 20301-1155. Your appeal letter should be postmarked within 60 calendar days of the date of this letter and should cite case number 06-F-2415. Inasmuch as this completes the processing of your request, I am closing your file in this Office. There are no fees associated with this response.

Sincerely,

(b)(6)

for

Will Kammer
Chief

Attachment:
As Stated

FOI/PA CASE ASSIGNMENT WORKSHEET

Case No: 00-4-02413-41

ACTION ASSIGNED TO _____ TEAM: A B C D REVIEWER _____ CARD _____

TYPE REQUEST: Appeal Commercial Educational News/Media NonCom/Scientific Other

EXPEDITED RESPONSE REQUESTED _____ GRANT? Y N DCII CHECK _____

UP-FRONT DOCUMENT SEARCH _____ FEE WAIVER REQUESTED _____ DATE RECEIVED: _____

REMARKS:

SEP 15 2008

CLOSED WITHDRAWN

(ASBCA) Armed Services Board of Contract Appeals
(AT&L) Acquisition, Technology, & Logistics
(A&T) Acquisition & Technology
(DAU) Defense Acquisition University
(DPAP) Defense Procurement & Acquisition Policy
(DARC) Defense Acquisition Regulation Council
(PSA) Portfolio Systems Acquisition
(TC) Treaty Compliance
(SBP) Small Business Programs
(BT) Business Transformation
(BTA) Business Transformation Agency
(DDR&E) Defense Research and Engineering
(AS&C) Advanced Systems & Concepts
(DARPA) Defense Advanced Research Projects Agency
(DMEA) Defense Micro Electronics Activity
(DSB) Defense Science Board
(I&E) Installations & Environment
(ECOA) Economic Adjustment
(L&MR) Logistics & Material Readiness
(IC) International Cooperation
(MDA) Missile Defense Agency
(NCB) Nuclear, Chemical, & Biological Defense Programs
(SPPGMS) Special Programs
(ATSDIO) Assistant to the Secretary of Defense (Intelligence Oversight)
(COMP) Comptroller
(PA&E) Program Analysis & Evaluation
(DPO) Defense Privacy Office
(EXSEC) The Exec. Secretariat

E-FOIA REPLY

(I) Intelligence
(CIFA) Counterintelligence Field Activity
(JS) Joint Staff
(LA) Legislative Affairs
(NDU) National Defense Univ.
(NII) Networks and Information Integration
(NSPS) National Security Personnel System
(NSSG) National Security Study Group
(ODNA) Office of the Director, Net Assessment
(OGC) Office of General Counsel
(DOHA) Director, Office of Hearings and Appeals
(OSAWHL) Office of the Special Assistant to the Secretary of Defense for White House Liaison
(PA) Public Affairs
(DMA) Defense Media Activity
(P&R) Personnel & Readiness
(CPMS) Civilian Personnel Management Service
(DEOMI) Defense Equal Opportunity Management Institute
(DMDC) Defense Manpower Data Center
(SIAD) Statistical Information Analysis Division
(FVAP) Federal Voting Assistance Program
(HA) Health Affairs
(DHSD) Deployment Health Support
(RA) Reserve Affairs
(PFFA) Pentagon Force Protection Agency
(USDP) (Policy)
(AP) Asian & Pacific Security Affairs
(CEN) Central Asia
(EAS) East Asia
(SEA) South and Southeast Asia

(IS) International Security Affairs
(AFR) Africa
(EUR) Europe & NATO
(MID) Middle East
(GS) Global Security Affairs
(CMO) Coalition Affairs
(GTS) Counternarcotics, Counterproliferation, and Global Threats
(DPO) Detainee Affairs
(MPA) Defense POW Missing Personnel Affairs Office
(DSCA) Defense Security Cooperation Agency
(DTSA) Defense Technology Security Administration
(PRT) Partnership Strategies
(HD) Homeland Defense and America's Security Affairs
(CMC) Crisis Management & Defense Support for Civil Authorities
(HLD) Homeland Def.
(HSI) Homeland Security Integration
(WHA) Western Hemisphere Affairs
(PDUSDP) Policy Director
(PPO) Policy Planning
(SPD) Support for Public Diplomacy
(SO/LIC) Special Operations and Low Intensity Conflict
(FT&R) Forces Transformation & Resources
(SOC) Special Operations
(STB) Stability Operations
(STR) Strategic Capabilities
(WHMO) White House Military Office
(WHS) Wash HQ Services

(A&P) Acquisition & Procurement
(ESD) Executive Services Directorate
(GC) General Counsel
(HRD) Human Resources
(PENREN) Pentagon Renovation
No Nexus Response
Not a Proper Request Reply
Not Reasonably Described
No Records Response
Not an Agency Record
Verification Response

ARMY	DTRA
NAVY	NGA
USAF	NGB
USMC	NRO
	NSA
CENTCOM	NSC
EUCOM	SHAPE
JFCOM	TRICARE
NORTHCOM	
PACOM	CIA
SOCOM	C. GUARD
SOUTHCOM	DEA
STRATCOM	OHS
TRANSCOM	DOE
	DOJ
DCAA	DOL
DCMA	FAA
OECA	FBI
DFAS	FEMA
DIA	GSA
DISA	NARA
DLA	NPRC
DoDIG	OPM
DoDEA	SEC. SVC.
DSS	STATE
DTIC	VA

~~SECRET~~



DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

JUL 08 2009

Ref: 06-A-2415
200800824 DOD001

MEMORANDUM FOR: DEPARTMENT OF STATE
DIRECTOR, INFORMATION PROGRAMS AND
SERVICES
ROOM 8113 SA-2
WASHINGTON, DC 20522-8113
OFFICE OF LEGAL ADVISOR (RM 6001 SA-2)

SUBJECT: Freedom of Information Act (FOIA) Appeal – Ms. Barbara Elias

Attached is an appeal of the denial of information in the case referenced above. Also attached is the previous decision from your office (dated July 10, 2008) as well as the initial response to the requester (dated July 18, 2008). In order for the Deputy Director, Administration and Management to fulfill the appellate authority responsibilities, the following is requested:

Conduct another review of the attached documents (1 and 2) initially withheld in their entirety under FOIA exemptions (b)(1) and (b)(5) by the National Security Council (NSC). This office has conducted an appellate review of these documents in coordination with the Central Intelligence Agency, and has determined that only the information shaded in gray should remain withheld from release under FOIA exemptions (b)(1), (b)(2)(High), (b)(3): 50 U.S.C. §403(g) Section 6, and (b)(6). This office recommends the release of the rest of the information because we do not believe it meets the standard of FOIA exemption (b)(1) and (b)(5). If you determine that additional portions should remain exempt, then bracket the recommended withholding, cite the FOIA exemption(s) invoked, and provide your rationale for denial.

For your information, this office will coordinate with the NSC prior to release.

Our action officer is (b)(6) at (b)(6) or

(b)(6)

(b)(6)

For -
James P. Hogan
Chief

Attachments:
As stated

'09 JUL 17 PM 1:32

~~SECRET~~

UNCLASSIFIED WHEN SEPARATED FROM ENCLOSURES

~~SECRET~~



DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

08 JUL 2009
Ref: 06-A-2415
F07025

MEMORANDUM FOR: JOINT STAFF (JS)

ATTN: (b)(6)

SUBJECT: Freedom of Information Act (FOIA) Appeal – Ms. Barbara Elias

Attached is an appeal of the denial of information in the case referenced above. In order for the Deputy Director, Administration and Management to fulfill the appellate authority responsibilities, the following is requested:

Conduct another review of the attached document (2) initially withheld its entirety under FOIA exemptions (b)(1) and (b)(5) by the National Security Council (NSC). More specifically, focus your review on page 1 of the name highlighted in yellow. We have attached the previous decision from your office (Form 472). Your office only chose to withhold this name from release under FOIA exemption (b)(6). However, as a contributor to a National Security Council meeting on behalf of the JS, this office feels that the public interest outweighs any privacy interest in this instance. Therefore, we recommend the release of this name because we do not believe it meets the standard of FOIA exemption (b)(6). If you do not agree with this recommendation, then state your rationale for continued denial in your response.

For your information, this office has conducted an appellate review of this document in coordination with the (b)(3): 50 USC § 3507 and the Office of the Under Secretary of Defense for Policy, and has determined that only the information shaded in gray should remain withheld from release under FOIA exemptions (b)(1), (b)(2)(High), (b)(3): 50 U.S.C. § 403(g) Section 6. This office will also coordinate with the Department of State and the NSC prior to release.

Forward your response to this office 20 business days from the date of this memo. Our action officer is (b)(6) at (b)(6) or (b)(6)

(b)(6)

For ~
James P. Hogan
Chief

Attachments:
As stated

~~SECRET~~

UNCLASSIFIED WHEN SEPARATED FROM ENCLOSURES

~~SECRET~~



DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

FEB

FEB 8 2011

Ref: 06-A-2415
F-2008-00796

MEMORANDUM FOR

(b)(6); (b)(3): 50 USC § 3507

SUBJECT: Freedom of Information Act (FOIA) Appeal – Ms. Barbara Elias

Attached is an appeal of the denial of information in the case referenced above. In order for the Deputy Director, Administration and Management to fulfill its responsibilities as the appellate authority, the following is requested:

Conduct another review of the attached documents (1 and 2) initially withheld in their entirety. This office has conducted an appellate review of these documents and has determined that the information shaded in gray should remain withheld from release under FOIA exemptions (b)(1), (b)(2)(High), (b)(3): 50 U.S.C. §403(g) Section 6, and (b)(6). This office recommends the release of the remaining information, because we do not believe it meets the standard of FOIA exemptions (b)(1) and (b)(5). If you do not agree with this recommendation, then state your rationale for continued denial in your response. We have attached the previous decision from your office as well as the initial response to the requester.

Please forward your response to this office by March 21, 2011. You may direct any questions concerning this appeal to Ms. Danaeka Spear at (b)(6) or

(b)(6)

Sincerely,

(b)(6)

James P. Hogan
Chief

Attachments:
As stated

~~SECRET~~

UNCLASSIFIED WHEN SEPARATED FROM ENCLOSURES

~~SECRET~~



DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

FEB 8 2011

Ref: 06-A-2415
L08-046

MEMORANDUM FOR: NATIONAL SECURITY COUNCIL
DIRECTOR OF ACCESS MANAGEMENT
RM 5013
NEW EXECUTIVE OFFICE BUILDING
WASHINGTON, DC 20504

SUBJECT: Freedom of Information Act (FOIA) Appeal – Ms. Barbara Elias

Attached is an appeal of the denial of information in the case referenced above. In order for the Deputy Director, Administration and Management to fulfill its responsibilities as the appellate authority, the following is requested:

Conduct another review of the attached documents (1 and 2) initially withheld in their entirety. This office has conducted an appellate review of these documents and has determined that the information shaded in gray should remain withheld from release under FOIA exemptions (b)(1), (b)(2)(High), (b)(3): 50 U.S.C. §403(g) Section 6, and (b)(6). This office recommends the release of the remaining information because we do not believe it meets the standard of FOIA exemptions (b)(1) and (b)(5). If you do not agree with this recommendation, then state your rationale for continued denial in your response. We have attached the previous decision from your office as well as the initial response to the requester.

Please forward your response to this office by March 21, 2011. You may direct any questions concerning this appeal to Ms. Danaeka Spear at (b)(6) or

(b)(6)

(b)(6)

for James P. Hogan
Chief

Attachments:
As stated

~~SECRET~~

UNCLASSIFIED WHEN SEPARATED FROM ENCLOSURES

~~SECRET~~



DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

FEB 8 2011

Ref: 06-A-2415

MEMORANDUM FOR USD POLICY EXECUTIVE SECRETARIAT

ATTN: (b)(6)

SUBJECT: Freedom of Information Act (FOIA) Appeal – Ms. Barbara Elias

Attached is an appeal of the denial of information in the case referenced above. In order for the Deputy Director, Administration and Management to fulfill its responsibilities as the appellate authority, the following is requested:

Conduct another review of the attached documents (1 and 2) initially withheld in their entirety. This office has conducted an appellate review of these documents and has determined that the information shaded in gray should remain withheld from release under FOIA exemptions (b)(1), (b)(2)(High), (b)(3): 50 U.S.C. §403(g) Section 6, and (b)(6). This office recommends the release of the remaining information, because we do not believe it meets the standard of FOIA exemptions (b)(1) and (b)(5). If you do not agree with this recommendation, then state your rationale for continued denial in your response. We have attached the previous decision from your office as well as the initial response to the requester.

Please forward your response to this office by March 21, 2011. You may direct any questions concerning this appeal to Ms. Danaeka Spear at (b)(6) or

(b)(6)

Sincerely,

(b)(6)

for James P. Hogan
Chief

Attachments:

As stated

~~SECRET~~

UNCLASSIFIED WHEN SEPARATED FROM ENCLOSURES

The National Security Archive

The George Washington University
Gelman Library, Suite 701
2130 H Street, N.W.
Washington, D.C. 20037



06-A-2622-A1

Phone: 202.994.7000
Fax: 202.994.7005
nsarchive@gwu.edu
<http://www.nsarchive.org>

Monday, January 29, 2007

James Hogan
Policy, Appeals and Litigation Branch,
Office of Freedom of Information
Department of Defense
1155 Defense Pentagon
Washington, DC 20301-1155

Re: Case Control No. 06-F-2622
Archive No. 20061553DOD254

Dear Mr. Hogan:

This letter is an administrative appeal regarding a Freedom of Information Act (FOIA) request submitted on August 28, 2006 by Malcolm Byrne. The request was for all records of correspondences between Secretary of State Colin L. Powell and Coalition Provisional Authority Administrator L. Paul Bremer from May 1, 2003 through December 31, 2003 concerning Iraq. In a letter dated January 11, 2007 from Will Kammur, the Department stated that the Defense Reconstruction Support Office (DRSO) located six responsive documents. Five of those documents were released with excisions and one was withheld. The letter stated that material was withheld under exemptions (b)(5) and (b)(6) although the individual exemptions are not displayed on any of the documents. This appeal pertains to material which we believe to exist, but was not located, and material withheld under (b)(5).

Paul Bremer states in his book, *My Year in Iraq*, that he had exchanged e-mail with Secretary of State Colin Powell during this period, particularly August 2003. This reference is provided in an attachment to our initial request. As a former high ranking civilian official of the Department of Defense stationed in Iraq, we believe that the information he provides in his book is accurate and that it is reasonable to believe that a search of the Department's records should have resulted in the retrieval of e-mails during this period. The correspondence we received, however, contains only official memoranda and none are during the month of August 2003. For these reasons, we ask that you search your records again for all types of responsive records and documents.

The material excised under (b)(5) in these documents consists of unusually large portions, often the majority and even the entirety of paragraphs. As we understand the application of exemption (b)(5), information is exempt only if it is both "predecisional" and "deliberative." *Petroleum Info. Corp. v. Dep't of the Interior*, 976 F.2d 1429, 1434 (D.C. Cir. 1992). "A document is predecisional if it was 'prepared in order to assist an agency decision maker in arriving at his decision,' rather than to support a decision already made." *Id.* In order to withhold materials as predecisional deliberative process materials under the (b)(5) exemption, the agency must be able to identify a specific agency decision, and the role those documents played in coming to that final decision. See *Paisley v. CIA*, 712 F.2d 686, 698 (D.C. Cir 1983)

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and 724 F.2d 201 (D.C. Cir 1984). The court held, "to approve exemption of a document as predecisional, a court must be able 'to pinpoint an agency decision or policy to which the document contributed.'"

In addition, material is deliberative only if it "reflects the give-and-take of the consultative process." *Petroleum Info. Corp.*, 976 F.2d at 1434 (citations omitted). "The privilege is designed to protect agency policy-oriented judgments and the processes by which policies are formulated, rather than 'purely factual, investigative matters.'" *National Ass'n of Home Builders v. Norton*, 309 F.3d 26, 39 (D.C. Cir. 2002) (citing *Environmental Protection Agency v. Mink*, 410 U.S. 73, 89 (1973)) (additional citations omitted). In fact, the D.C. Circuit has drawn an explicit distinction "between factual information, which 'generally must be disclosed,' and 'materials embodying officials' opinions,' which are 'ordinarily exempt.'" *National Ass'n of Home Builders*, 309 F.3d at 39; see *Quarles v. Dep't of Navy*, 893 F.2d 390, 392 (D.C. Cir. 1990). Further, it is our contention that over-application of the (b)(5) exemption prevents the public from obtaining access to documentation regarding the actions and deliberations of the government and is therefore counter to the intent of the Freedom of Information Act.

In addition to requesting that conduct another search, I ask that you give review the documents previously found responsive again for maximum disclosure of information giving due consideration to public interest on matters addressed in the documents. The efforts of the United State government to create stable political institutions in Iraq after the war is of great interest to the American public as well as of great historical value. At a minimum, release all factual portions found responsive to the request. Factual, post-decisional information, unless inextricably intertwined with other information, is not protected under the fifth exemption and must be released. See the Supreme Court's ruling in *EPA v. Mink*, 410 U.S. 73.

We appreciate your prompt response in releasing these documents to the public. Thank you for your attention to this request.

Sincerely yours,

(b)(6)

Roger Strother



DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

COPY

FEB 5 2007

Ref: 06-A-2622
20061553DOD254

Mr. Roger Strother

(b)(6)

Dear Mr. Strother:

This acknowledges receipt of your Freedom of Information Act (FOIA) appeal of January 29, 2007, which was received on the same date.

In your appeal you stated, "The Defense Reconstruction Support Office (DRSO) located six responsive documents. Five of those documents were released with excisions and one withheld." Please note, in its January 11, 2007, response, the Office of Freedom of Information did not advise you that a document was withheld; rather, the sixth document was referred to the Department of State for processing and direct response to you.

Due to a large number of pending appeals, we are unable to complete your appeal within the statutory time requirement. In fairness to the general public, we make every effort to treat all requesters equally. Accordingly, responses are made on a first-in, first-out, easy-hard basis, and controlled in response queues. After the appellate review, your appeal will be processed in turn, by date of receipt of the appeal, and whether the case is easy or difficult to complete.

However, you may be assured that action on this appeal will be completed as quickly as possible. If you have any questions regarding this appeal, please contact Ms. (b)(6) at (b)(6)

Sincerely,

(b)(6)

James P. Hogan
Chief, FOIA Policy, Appeals & Litigation
Branch



DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

Ref: 06-A-2622
Archive #: 20061553DOD254

DEC 31 2013

Mr. Roger Strother

(b)(6)

Dear Mr. Strother:

This is in partial response to your January 29, 2007, Freedom of Information Act (FOIA) appeal. You appealed the January 11, 2007, denial of information and the adequacy of the search for records conducted by the Office of Freedom of Information (OFOI) in response to your August 28, 2006, FOIA request.

This office has conducted a new search in regards to the adequacy of search portion of your appeal and additional records responsive to your request were located. Therefore, I am remanding this request back to OFOI to reopen your initial request and make a releasability determination regarding the newly located documents. OFOI will give you new appeal rights if it is determined that any information is exempt from disclosure. Please be aware that we are continuing to process your appeal regarding the initial denial of information and you will be informed of the appellate determination in the near future.

Sincerely

(b)(6)

James P. Hogan
Chief

CC: OFOI



ADMINISTRATION AND
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE
1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

Ref: 06-A-2622
Archive #: 20061553DOD254

Mr. Roger Strother

(b)(6)

Dear Mr. Strother:

This is in response to your January 29, 2007, Freedom of Information Act (FOIA) appeal, concerning the January 11, 2007 response from the Office of Freedom of Information (OFOI). You appealed the denial of information and the adequacy of the search for records conducted by the OFOI in response to your August 28, 2006, FOIA request. I apologize that this response was not provided in a more timely manner.

A review of the denied information has been completed at the appellate level and I have determined that additional information should be released. Portions of the withheld information in the enclosed documents remain exempt from release because it is specifically exempted by 10 U.S.C §130c, which applies to certain sensitive information of foreign governments and international organizations. Additionally, a portion of the withheld information is exempt from release because it is pre-decisional and deliberative in nature and contains subjective evaluations, opinions and recommendations which, if disclosed, would inhibit the decision making process. Release of this information would have the foreseeable harm of curtailing open discussions and recommendations in the future. Finally, some information is withheld because release would constitute a clearly unwarranted invasion of the personal privacy of individuals. Consequently, this information is exempt from release pursuant to 5 U.S.C. § 552 (b)(3), (b)(5) and (b)(6).

As for your appeal of the adequacy of search, new pages responsive to your request were located. These pages were addressed in a previous response to you.

You have the right to judicial review of this decision in a United States District Court, in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

William E. Brazis
Deputy Director

Enclosures:
As stated

The National Security Archive

The George Washington University
Gelman Library, Suite 701
2130 H Street, N.W.
Washington, D.C. 20037

Phone: 202/994-7000
Fax: 202/994-7005
nsarchive@gwu.edu
www.nsarchive.org

Monday, August 28, 2006

Karen Finnegan
Office of Freedom of Information
1155 Defense Pentagon
Washington, DC 203011155

Re: Request under the FOIA, in reply refer to Archive# 20061553DOD254

Dear Ms. Finnegan:

Pursuant to the Freedom of Information Act (FOIA), I hereby request disclosure of the following:

All records of correspondences between Secretary of State Colin L. Powell and Coalition Provisional Authority Administrator L. Paul Bremer from May 1, 2003 through December 31, 2003 concerning Iraq, including but not limited to memoranda, letters, e-mails and cables. In his book *My Year in Iraq* (New York: Simon and Schuster, 2006), L. Paul Bremer discussed e-mails he received from Secretary of State Powell in mid August 2003, in which he "raised his concerns" about security in Iraq. This request covers but should not be limited to records of those e-mails. Please see the attached page 132 from *My Year in Iraq*.

If you regard any of these documents as potentially exempt from the FOIA's disclosure requirements, I request that you nonetheless exercise your discretion to disclose them. As the FOIA requires, please release all reasonably segregable non-exempt portions of documents. To permit me to reach an intelligent and informed decision over whether or not to file an administrative appeal of any denied material, please describe any withheld records (or portions thereof) and explain the basis for your exemption claims.

As you know, the National Security Archive qualifies for a waiver of search and review fees as a representative of the news media. This request is made as part of a scholarly and news research project and not for commercial use. For details on the Archive's research and publication activities, please see our Web site at the address above. Please notify me before incurring any photocopying costs over \$100.

To expedite the release of the requested documents, please disclose them on an interim basis as they become available to you, without waiting until all the documents have been processed. If you have any questions regarding the identity of the records, their location, the scope of the request or any other matters, please call me at (202) 994-7000 or email me at foiamail@gwu.edu. I look forward to receiving your response within the twenty day statutory time period.

Sincerely yours,


Malcolm Byrne

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FREEDOM OF INFORMATION ACT REQUEST INTERIM RESPONSE

1. DATE OF REQUEST	2. DATE RECEIVED	3. CASE WORKLOAD	4. CASE NUMBER
8/28/2006	8/29/2006	2400	06-F-2622

This is an interim response to your Freedom of Information Act (FOIA) request, received in this office on the above date. Your request has been assigned the case number indicated above, and is being processed as quickly as possible in accordance with procedural requirements promulgated in DoD Regulation 5400.7-R at 32 CFR 286. The actual processing time will depend upon its complexity, whether it involves sensitive records, voluminous records, extensive searches, consultation among DoD components or other agencies, and our administrative workload which is listed in block 3 above.

If you have any questions, please call (b)(6) and ask for

(b)(6)

NATIONAL SECURITY ARCHIVE #20061553D0D254

Office of Freedom of Information and Security Review
Room 2C757, 1155 Defense Pentagon, Washington, DC 20301-1155



**DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

JAN 11 2007

**Ref: 06-F-2622
20061553DOD254**

**Mr. Malcolm Byrne
National Security Archive
Gelman Library, Suite 701
2130 H. St., NW
Washington, DC 20037**

Dear Mr. Byrne:

This is the final response to your Freedom of Information Act request dated August 28, 2006, for "all records of correspondence between Secretary of State Colin L. Powell and Coalition Provisional Authority Administrator L. Paul Bremer from May 1, 2003 through December 31, 2003 concerning Iraq, including but not limited to memoranda, letters, e-mails and cables." The Defense Reconstruction Support Office (DRSO) has identified six documents, totaling 21 pages, as responsive to your request. Lieutenant Commander James B. Potts, an Initial Denial Authority for DRSO, has determined that some of the information in these documents is exempt from release.

Enclosed are five documents, totaling 16 pages that are appropriate for release with excisions made pursuant to 5 U.S.C. § 552(b)(5), which pertains to certain inter- and intra-agency communications protected by the deliberative process privilege; and 5 U.S.C. § 552(b)(6), which pertains to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of individuals. The hand-written page numbers appearing in the top, right-hand corner of each document were placed there merely for administrative purposes, and were not on the original documents. Additionally, one document, totaling five pages, originated with the Department of State and we have referred your request and the document there for processing and direct response to you.

If you are not satisfied with this action, you may submit an administrative appeal to James Hogan, Chief, Policy, Appeals, and Litigation Branch at the above address. Your

appeal should be postmarked within 60 days of the date of this letter, should cite to case number 06-F-2622 and should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

(b)(6)

A large rectangular area of the document is redacted with a solid gray fill. The redaction covers the signature and any handwritten notes that might have been present.

**Will Kammer
Chief**

**Enclosures:
As stated**

FOI/PA CASE ASSIGNMENT WORKSHEET

Case No: 06-A-2622-A1

ACTION ASSIGNED TO _____ TEAM: A B C PMB REVIEWER DH CARD
 TYPE REQUEST: Appeal Commercial Educational News/Media NonCom/Scientific Other
 EXPEDITED RESPONSE REQUESTED _____ GRANT? Y N DCII CHECK _____
 UP-FRONT DOCUMENT SEARCH _____ DATE RECEIVED: _____
 REMARKS: _____

07 JAN 29 P 2:18

CLOSED WITHDRAWN

E-FOIA REPLY

(ASBCA) Armed Services Board of Contract Appeals
(AT&L) Acquisition, Technology, & Logistics
(A&T) Acquisition & Technology
(DAU) Defense Acquisition University
(DPAP) Defense Procurement & Acquisition Policy
(DARC) Defense Acquisition Regulation Council
(PSA) Portfolio Systems Acquisition
(TC) Treaty Compliance
(SBP) Small Business Programs
(BT) Business Transformation
(BTA) Business Transformation Agency
(DDR&E) Defense Research and Engineering
(AS&C) Advanced Systems & Concepts
(DARPA) Defense Advanced Research Projects Agency
(DMEA) Defense Micro Electronics Activity
(DSB) Defense Science Board
(I&E) Installations & Environment
(ECOADJ) Economic Adjustment
(L&MR) Logistics & Material Readiness
(IC) International Cooperation
(MDA) Missile Defense Agency
(NCB) Nuclear, Chemical, & Biological Defense Programs
(SPPGMS) Special Programs
(ATSDIO) Assistant to the Secretary of Defense (Intelligence Oversight)
(COMP) Comptroller
(PA&E) Program Analysis & Evaluation
(DPO) Defense Privacy Office
(EXSEC) The Exec. Secretariat

(I) Intelligence
(CIFA) Counterintelligence Field Activity
(JFSC) Joint Forces Staff College
(JS) Joint Staff
(LA) Legislative Affairs
(NDU) National Defense Univ.
(NI) Networks and Information Integration
(NSPS) National Security Personnel System
(NSSG) National Security Study Group
(ODNA) Office of the Director, Net Assessment
(OGC) Office of General Counsel
(DOHA) Director, Office of Hearings and Appeals
(OSAWHL) Office of the Special Assistant to the Secretary of Defense for White House Liaison
(OT&E) Operational Test & Evaluation
(PA) Public Affairs
(DVIC) Defense Visual Information Center
(P&R) Personnel & Readiness
(CPMS) Civilian Personnel Management Service
(DEOMI) Defense Equal Opportunity Management Institute
(DMDC) Defense Manpower Data Center
(SIAD) Statistical Information Analysis Division
(FVAP) Federal Voting Assistance Program
(HA) Health Affairs
(DHSD) Deployment Health Support
(RA) Reserve Affairs
(USUHS) Uniformed Services University of Health Sciences
(PFFA) Pentagon Force Protection Agency

(USDP) USD (Policy)
(DRSO) Defense Reconstruction Support Office Formerly CPA & DSO-Iraq
(PDUSD) Principal Deputy
(DPB) Defense Policy Board
(ODA) Office of Detainee Affairs
(R&P) Resources and Plans
(STRATEGY) DASD
(ISA) International Security Affairs
(AFRA) African Affairs
(APA) Asian and Pacific Affairs
(DPMO) Defense POW Missing Personnel Affairs Office
(DSCA) Defense Security Cooperation Agency
(NESAA) Near Eastern & South Asian Affairs
(WHA) Western Hemisphere Affairs
(ISP) International Security Policy
(DTSA) Defense Technology Security Administration
(EURASIA) Russia, Ukraine, & EURASIA Affairs
(EURNATO) European and NATO Affairs
(FP) Forces Policy
(NP) Negotiations Policy
(HD) Homeland Defense
(SO/LIC) Special Operations and Low Intensity Conflict
(CN) Counter Narcotics
(CT) Combating Terrorism
(SO) Stability Ops.
(WHMO) White House Military Office
(WHS) Washington Headquarters Service

(A&P) Acquisition & Procurement
(ESD) Executive Services Directorate
(GC) General Counsel
(HRD) Human Resources
(PENREN) Pentagon Renovation
No Nexus Response
Not a Proper Request Reply
Not Reasonably Described
No Records Response
Verification Response

ARMY	DTRA
NAVY	NGA
USAF	NGB
USMC	NSA
	NSC
CENTCOM	SHAPE
EUCOM	TRICARE
JFCOM	
NORTHCOM	
PACOM	CIA
SOCOM	C. GUARD
SOUTHCOM	DEA
STRATCOM	DHS
TRANSCOM	DOE
	DOJ
DCAA	DOL
DCMA	FAA
DECA	FBI
DFAS	FEMA
DIA	GSA
DISA	NARA
DLA	NPRC
DoDIG	ONDCP
DoDEA	SEC. SVC.
DSS	STATE
DTIC	VA

06-A-2742-A1

The National Security Archive

The George Washington University
Gelman Library, Suite 701
2130 H Street, N.W.
Washington, D.C. 20037



Phone: 202.994.7000
Fax: 202.994.7005
naarchive@gwu.edu
<http://www.nsaarchive.org>

Monday, February 12, 2007

James Hogan
Policy, Appeals, and Litigation Branch
Department of Defense
Office of Freedom of Information
1155 Defense Pentagon
Washington, DC 20301-1155

Re: Case Control No. 06-F-2742 / Archive No. 20061768DOD275

Dear Mr. Hogan:

This letter is an administrative appeal regarding a Freedom of Information Act (FOIA) request submitted on September 20, 2006. The request was for all documents and concerning the effectiveness and ability of Iraqi Prime Minister Nuri Kamal al-Maliki in establishing and maintaining order and security in Iraq. In his December 21, 2006 letter, Will Kammer stated that the Middle East Office had located 21 responsive pages of material and was withholding them in their entirety under exemptions (b)(1), (b)(5), and (b)(6). This appeal pertains to information withheld under (b)(1) and (b)(5).

As required by the FOIA, we ask that you release all reasonably segregable portions of the documents withheld under (b)(1). While we appreciate your previous review of these files, we believe that the enormous public interest in this matter merits an additional review of the denied material. In his nationally televised speech in June 2005 at Fort Bragg, NC, President Bush stated that, "Our strategy can be summed up this way: As the Iraqis stand up, we will stand down." These documents are the best source of information regarding the U.S. government's assessment of the Iraqi government's effectiveness in "standing up." Further, the public interest in these materials is evidenced by the facts that the media has presented daily reports on the security situation in Iraq and that the presence of U.S. soldiers attempting to stabilize Iraq has been funded by tax-payer money. It is likely that these documents will inform the public regarding U.S. foreign policy in Iraq.

The reduction of Sadr's influence in Iraq is a key component of the U.S. government's goals in Iraq. The U.S. government has put considerable public pressure on the Iraqi government to decrease the power of al-Sadr and his Mahdi Army. It is public knowledge that individuals loyal to al-Sadr, however, are among those holding high-level positions in the Iraqi government. These documents may illuminate the public's understanding of the progress being made toward U.S. policy goals in Iraq.

We contend that over-application of the (b)(5) exemption prevents the public from obtaining access to documentation regarding the actions and deliberations of the government and is therefore counter to the intent of the Freedom of Information Act. As we understand the application of exemption (b)(5), information is exempt only if it is both "predecisional" and "deliberative." *Petroleum Info. Corp. v. Dep't of the Interior*, 976 F.2d 1429, 1434 (D.C. Cir. 1992). "A document is predecisional if it was 'prepared in

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The National Security Archive

The George Washington University
Galman Library, Suite 701
2130 H Street, N.W.
Washington, D.C. 20037



Phone: 202.994.7000
Fax: 202.994.7009
nsarchive@gwu.edu
<http://www.nsarchive.org>

order to assist an agency decision maker in arriving at his decision,' rather than to support a decision already made.'" *Id.* In order to withhold materials as predecisional deliberative process materials under the (b)(5) exemption, the agency must be able to identify a specific agency decision, and the role those documents played in coming to that final decision. See *Paisley v. CIA*, 712 F.2d 686, 698 (D.C. Cir 1983) and 724 F.2d 201 (D.C. Cir 1984). The court held, "to approve exemption of a document as predecisional, a court must be able 'to pinpoint an agency decision or policy to which the document contributed.'"

In addition, material is deliberative only if it "reflects the give-and-take of the consultative process." *Petroleum Info. Corp.*, 976 F.2d at 1434 (citations omitted). "The privilege is designed to protect agency policy-oriented judgments and the processes by which policies are formulated, rather than 'purely factual, investigative matters.'" Factual, post-decisional information, unless inextricably intertwined with other information, is not protected under the fifth exemption and must be released. *National Ass'n of Home Builders v. Norton*, 309 F.3d 26, 39 (D.C. Cir. 2002) (citing *Environmental Protection Agency v. Mink*, 410 U.S. 73, 89 (1973)) (additional citations omitted). In fact, the D.C. Circuit has drawn an explicit distinction "between factual information, which 'generally must be disclosed,' and 'materials embodying officials' opinions,' which are 'ordinarily exempt.'" *National Ass'n of Home Builders*, 309 F.3d at 39; see *Quarles v. Dep't of Navy*, 893 F.2d 390, 392 (D.C. Cir. 1990).

Please review these documents again while giving due regard to the public interest in this matter. Again, we ask that you, at a minimum, release all reasonably segregable post-decisional information.

Sincerely yours,

(b)(6)

Roger Strother

An independent non-governmental research institute and library located at the George Washington University, the Archive collects and publishes declassified documents obtained through the Freedom of Information Act. Publication royalties and tax deductible contributions through The National Security Archive Fund, Inc. underwrite the Archive's budget.

From: Roger Strother (b)(6)
Sent: Wednesday, September 20, 2006 2:57 PM
To: DFOISR, DOD/DFOISR/WHS
Subject: Freedom of Information Act Request

Submitted: [20/Sep/2006:14:56:21]

Name: Roger Strother
Organization: National Security Archive
E-mail: (b)(6)
Phone number: [REDACTED]

Address 1: 2130 H St NW
Address 2: National Security Archive/Gelman Library
City: Washington
State: DC
ZIP Code: 20036
Country:

Requester Control Number: 20061768DOD275

Request Message:

National Security Archive # 20061768DOD275 / All documents and records including, but not limited to, assessments, electronic mails (e-mails), memoranda, notes, transcripts, and reports from May 2006 through present concerning, in whole and in part, the effectiveness and ability of Iraqi Prime Minister Nuri Kamal al-Maliki in establishing and maintaining order and security in Iraq. Please also include all documents and records which concern, in whole and in part, Maliki's relationship with and/or reliance on Iraqi Shiite cleric Moktada al-Sadr, commander of the Mahdi Army.

Willing To Pay: \$ 100.00

--
Submitted via <http://www.dod.mil/pubs/foi/foiarequest.html>

Sender Information:

REMOTE_HOST: vwsdp1.ttn.xpc-mii.net
REMOTE_ADDR: 65.206.60.105
Browser: Mozilla/4.0 (compatible; MSIE 7.0; Windows NT 5.1; .NET CLR 1.1.4322; .NET CLR 2.0.50727)
E-mail: (b)(6)

**FREEDOM OF INFORMATION ACT REQUEST INTERIM RESPONSE
(COMPLEX REQUESTS)**

1. DATE OF REQUEST	2. DATE RECEIVED	3. CASE WORKLOAD	4. CASE NUMBER
9/20/06	9/20/06	abt 2400	06-F-2742

This is an interim response to your Freedom of Information Act (FOIA) request, received in this office on the above date. Your request has been assigned the case number indicated above, and is being processed as quickly as possible in accordance with procedural requirements promulgated in DoD Regulation 5400.7-R at 32 CFR 286. As currently worded, your request may take considerable time to complete. The actual processing time will depend upon its complexity, whether it involves sensitive records, voluminous records, extensive searches, consultation among DoD components or other agencies, and our administrative workload which is listed in block 3 above.

If you have any questions or would like to discuss how to limit your request in order to speed up the processing time, please call:

(b)(6)

and ask for

(b)(6)

Office of Freedom of Information and Security Review
Room 2C757, 1155 Defense Pentagon, Washington, DC 20301-1155



**DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

DEC 21 2006
Ref: 06-F-2742
20061768DOD275

Mr. Roger Strother
National Security Archive
2130 H Street NW
Washington, DC 20036

Dear Mr. Strother:

This is the final response to your September 20, 2006, electronic Freedom of Information Act (FOIA) request for documents "from May 2006 through present concerning, in whole and in part, the effectiveness and ability of Iraqi Prime Minister Nuri Kamal Al-Maliki in establishing and maintaining order and security in Iraq." Specifically, you requested access to "all documents and records which concern, in whole and in part, Maliki's relationship with and/or reliance on Iraqi Shiite cleric Moktada al-Sadr, commander of the Mahdi Army."

The Middle East Office, formerly Near East and South Asian Affairs (NESAA), located 21 pages of material responsive to your request. Mr. Mark T. Kimmitt, Deputy Assistant Secretary of Defense for the Middle East (ME) Office has determined that this material is exempt from release pursuant to 5 U.S.C. § 552(b)(1) because it is currently and properly classified in accordance with Executive Order 12958, as amended, Section 1.4(b), which concerns foreign government information, and (d), which concerns foreign relations or foreign activities of the United States, including confidential sources. Additionally, some of the information is exempt from release pursuant to 5 U.S.C. § 552(b)(5), which pertains to certain inter- and intra-agency communications protected by the deliberative process privilege. Finally, some of the information, if released, would constitute a clearly unwarranted invasion of the personal privacy of individuals and this material is exempt from release pursuant to 5 U.S.C. § 552(b)(6).

If you are not satisfied with this action, you may submit an administrative appeal to James Hogan, Policy, Appeals and Litigation Branch at the above address. Your appeal letter should be postmarked within 60 calendar days of the date of this letter, should cite case number 06-F-2742, and should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

(b)(6)

Will Kammer
Chief



~~SECRET~~
DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

04 DEC 2008

Ref: 06-A-2742

MEMORANDUM THRU: USD POLICY EXECUTIVE SECRETARIAT

ATTN: (b)(6)

FOR OFFICE OF THE DUSD MIDDLE EAST

SUBJECT: Freedom of Information Act (FOIA) Appeal – Mr. Roger Strother

Attached is an appeal of the denial of information in the case referenced above (see attached Form 472). In order for this office to fulfill its responsibilities, the following is requested:

Conduct another review of the attached documents (1-8) previously denied in their entirety to the requester. For any information which you recommend still not be released, enclose that information in brackets on the documents and return it to this office. Cite the FOIA exemption(s) invoked for any recommended withholding, and your rationale for denial.

Forward your response to this office 20 business days from the date of this memo. Our action officer is (b)(6) at (b)(6) or (b)(6)

(b)(6)

For
- James P. Hogan
Chief

Attachments:

As stated

~~SECRET~~

UPON REMOVAL OF ATTACHMENT(S)
DOCUMENT BECOMES UNCLASSIFIED

~~SECRET~~



**DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

24 FEB 2009

Ref: 06-A-2742

MEMORANDUM FOR: NATIONAL SECURITY COUNCIL
DIRECTOR OF ACCESS MANAGEMENT
RM 5013
NEW EXECUTIVE OFFICE BUILDING
WASHINGTON, DC 20504

SUBJECT: Freedom of Information Act (FOIA) Appeal – Mr. Roger Strother

Attached is an appeal of the denial of information in the case referenced above. In order for the Deputy Director, Administration and Management to fulfill its responsibilities as the appellate authority, the following is requested:

Conduct a review of the attached document (DOC 2) initially withheld in its entirety. Bracket the information and cite the FOIA exemption(s) invoked for any recommended withholding along with your rationale for denial. This office along with the Deputy Assistant Secretary of Defense for Middle East has conducted an initial appellate review of the document and we have determined that the information shaded in gray should remain withheld under FOIA exemption (b)(1).

Our action officer is (b)(6) at (b)(6) or (b)(6)

(b)(6)

For: James P. Hogan
Chief

Attachments:
As stated

~~SECRET~~

UNCLASSIFIED WHEN SEPARATED FROM ENCLOSURES



~~SECRET//NOFORN~~

06-A-2742-A1
USD(P) TASKER

DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

MAY 10 2016

Ref: 06-A-2742-A1
06-F-2742

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR POLICY

ATTN: (b)(6)

SUBJECT: Freedom of Information Act (FOIA) Appeal – Mr. Roger Strother

Attached are copies of the initial FOIA request, the Appeal and eight responsive documents totaling 21 pages in the case referenced above. During the initial determination, these pages were denied in full. In order for the Director, Oversight and Compliance to fulfill responsibilities as the appellate authority, the following is requested:

Please conduct a line-by-line review of the information previously denied. If you determine any of the previously denied information should remain exempt from release, enclose that information in RED brackets, cite the FOIA exemption(s) invoked, and provide your rationale for continued denial on SD Form 472. Please note that document 1 was scheduled to be declassified on August 15, 2006, and document 5 is scheduled to be declassified on July 20, 2016. Therefore, in order for these documents to be withheld under FOIA exemption (b)(1) they must be reclassified and recommend your coordination with the document originator.

Please forward your response to this office by June 30, 2016. If you have questions regarding this appeal, contact Jeanne Moretti at (b)(6) or (b)(6)

(b)(6)

Danaeka Spear
Chief, Appellate Office

Attachments:

1. Tab A: FOIA request letter
2. Tab B: FOIA appeal letter
3. Tab C: FOIA Response letter
3. Tab D: SD Form 472
4. Tab E: SD Form 472 dated 11/13/2006 with redacted documents (S)
5. Tab F: Copy of clean documents (S)

~~SECRET//NOFORN~~

UNCLASSIFIED UPON REMOVAL OF ENCLOSURES



**DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

30 MAR 2007

Ref: 07-A-0084(A)

MEMORANDUM FOR OASD (PA)

ATTN: TSGT (b)(6)

SUBJECT: Freedom of Information Act (FOIA) Appeal -- Mr. Roger Strother

Attached is a request, and an appeal for information concerning a December 28, 2001, briefing of President George W. Bush by General Thomas "Tommy" Franks at Crawford, Texas. The initial search with OSD found no responsive documents. The OSD office responsible for the SVTC Center does not maintain videotapes of any SVTC. On appeal, Mr. Strother provided a copy of a news transcript, attached, wher in the Assistant Secretary of Defense for Public Affairs, Lawrence DiRita, stated that a video of an SVTC, done on the day of the subject briefing. Therefore, since Mr. DiRita mentioned the existence of the videotape, we are asking your office to conduct a search for it. We request that you respond back to this office.

If, upon the search the video is found, identify parts of the video which you wish withheld. Cite the exemption(s) invoked and rationale on the SD Form 472 provided.

A copy of DD Form 2086 is also attached. Forward your response, including copies of all responsive records with completed legal coordination, to this office by April 27, 2007. Our action officer is Stephen Fisher; email, (b)(6) phone,

(b)(6)

(b)(6)

for

James P. Hogan/

Chief, FOIA Policy, Appeals and Litigation

Attachments:

As stated



DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

22 JUL 2009

Ref: 07-A-0084

MEMORANDUM FOR: ASD PUBLIC AFFAIRS

SUBJECT: Freedom of Information Act (FOIA) Appeal – Roger Strother

Attached is an appeal of the no record determination in the case referenced above. In order for the Deputy Director, Administration and Management to fulfill responsibilities as the appellate authority, the following is requested:

Conduct a search for the records responsive to the attached request. If this search does not produce any responsive records, then list the offices/systems used to conduct this search. If your office finds responsive records, then conduct a review, bracket, and cite the FOIA exemption(s) invoked for any information that your office wants to withhold from release along with your rationale for denial. Also, provide this office with a clean copy of any responsive record. Note that this office had asked your office to conduct a search on March 30, 2007, but received no response (memo attached).

Forward your response to this office within 20 business days from the date of this memo. Our action officer is (b)(6) at (b)(6) or

(b)(6)

(b)(6)

James P. Hogan
Chief

Attachments:
As stated



DEPARTMENT OF DEFENSE
FREEDOM OF INFORMATION DIVISION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

FEB 18 2016
Ref: 07-A-0084
07-F-0084

MEMORANDUM FOR: ASD FOR PUBLIC AFFAIRS (PA)

ATTN: (b)(6)

SUBJECT: Freedom of Information Act (FOIA) Appeal – Mr. Roger Strother

Attached is a copy of the FOIA request, the appeal, and a copy of a news transcript in the case referenced above. On July 22, 2009, we asked PA to conduct a search concerning a “December 28, 2001, briefing of President George W. Bush by General Thomas “Tommy” Franks at Crawford, Texas. Secretary of Defense Donald Rumsfeld was also present at the briefing over teleconference video.” As of this date this has not been completed. Therefore, by March 3, 2016, we ask that you complete the following:

Conduct a current search for responsive records. If you locate responsive records, and during your review, you determine information to sensitive for release, bracket any information that you believe is exempt from disclosure, cite the applicable FOIA exemption(s), and provide your rationale for the withholding, enclose the information in brackets on one copy of the entry and return it to this office.

You may direct any questions to Mr. Donald Nicholson at (b)(6) or at (b)(6)

Sincerely,

(b)(6)

Danaeka Spear
Chief, Appeals Office

Attachments:

FOIA Request, dated October 13, 2006
FOIA appeal, dated December 14, 2006
DoD News Transcript dated April 19, 2004

07-A-0084-A1

The National Security Archive

The George Washington University
Gelman Library, Suite 701
2130 H Street, N.W.
Washington, D.C. 20037



Phone: 202.994.7000
Fax: 202.994.7005
nsarchiv@gwu.edu
<http://www.nsarchive.org>

Thursday, December 14, 2006

James Hogan, Chief
Policy, Appeals, and Litigation Branch
Department of Defense
Office of Freedom of Information
1155 Defense Pentagon
Washington, DC 20301-1155

Re: Case Control No. 07-F-0084 / Archive No. 20061926DOD293

Dear Mr. Hogan:

This letter is an administrative appeal regarding a Freedom of Information Act (FOIA) request submitted on October 13, 2006. The request was for all documents and records regarding the December 28, 2001 briefing of President George W. Bush by General Thomas "Tommy" Franks at Crawford, Texas. In the Department's letter of October 31, 2006, it was stated that the Department's search yielded no responsive records.

The Archive feels that a thorough search would have yielded the responsive documents. The meeting was discussed in the October 23, 2003 interview of the Secretary of Defense by journalist and author Bob Woodward. This interview, available on the Department's website, mentions the meeting and the Defense Secretary's presence via Secure Video Teleconference (SVTC). In the interview, Principle Secretary of Defense for Public Affairs, Lawrence DiRita stated, "We do have a video of you on SVTC that day from your place." It is highly likely that there are responsive records, including audio/video, in the Department's possession.

I ask that you search your records again, particularly the records of the Office of Secretary of Defense (OSD) and Office of the Deputy Secretary of Defense. I ask that you review the records for disclosure and that use your discretion to ensure maximum disclosure of information, giving due consideration to the extraordinary public interest of the matters addressed in this document. At a minimum, I request that the Agency release all reasonably segregable information in the document.

Thank you for your attention to this request. I hope that the enclosed excerpt will provide you with enough background information to conduct a thorough search.

Sincerely yours,

(b)(6)

Roger Strother

Enclosures: as stated

An Independent non-governmental research institute and library located at the George Washington University, the Archive collects and publishes declassified documents obtained through the Freedom of Information Act. Publication royalties and tax deductible contributions through The National Security Archive Fund, Inc. underwrite the Archive's Budget.



**DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

11 JAN 2007
Ref: 07-A-0084(A)

Mr. Roger Strother
The National Security Archive
The George Washington University
Gelman Library Suite 701
2130 H Street, NW
Washington, DC 20037

Dear Mr. Strother:

This acknowledges receipt of your Freedom of Information Act appeal, dated December 14, 2006.

Due to a large number of pending appeals, we are unable to complete your appeal within the statutory time requirement. In fairness to the general public, we make every effort to treat all requesters equally. Accordingly, responses are made on a first-in, first-out, easy-hard basis, and controlled in response queues. After the appellate review, your appeal will be processed in turn, by date of its receipt, and whether the case is easy or difficult to complete.

Sincerely,

(b)(6)



James P. Hogan
Chief, FOIA Policy, Appeals and Litigation

From: Roger Strother (b)(6)
Sent: Friday, October 13, 2006 11:27 AM
To: DFOISR, DOD/DFOISR/WH
Subject: Freedom of Information Act Request

Submitted: [13/Oct/2006:11:25:55]

Name: Roger Strother
Organization: National Security Archive
E-mail: (b)(6)
Phone number: (b)(6)

Address 1: 2130 H St NW
Address 2: National Security Archive/Gelman Library
City: Washington
State: DC
ZIP Code: 20036
Country:

Requester Control Number: 20061926DOD293

Request Message:

National Security Archive # 20061926DOD293 / All documents and records including, but not limited to, memoranda, transcripts, talking points, charts, lines of operation, Secure Video Teleconference (SVTC) recordings, notes, and slides, regarding the December 28, 2001 briefing of President George W. Bush by General Thomas "Tommy" Franks at Crawford, Texas. Secretary of Defense Donald Rumsfeld was also present at the briefing over teleconference video.

Willing To Pay: \$ 100.00

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Submitted via <http://www.dod.mil/pubs/foi/foiarequest.html>

Sender Information:

REMOTE_HOST: vwsdp1.ttn.xpc-mii.net
REMOTE_ADDR: 65.206.60.105
Browser: Mozilla/5.0 (Windows; U; Windows NT 5.1; en-US; rv:1.8.0.7) Gecko/20060909
Firefox/1.5.0.7
E-mail: (b)(6)

**FREEDOM OF INFORMATION ACT REQUEST INTERIM RESPONSE
(COMPLEX REQUESTS)**

1. DATE OF REQUEST	2. DATE RECEIVED	3. CASE WORKLOAD	4. CASE NUMBER
Oct 13, 2000	Oct 13, 2000	2400	07 F 0089

This is an interim response to your Freedom of Information Act (FOIA) request, received in this office on the above date. Your request has been assigned the case number indicated above, and is being processed as quickly as possible in accordance with procedural requirements promulgated in DoD Regulation 5400.7-R at 32 CFR 286. As currently worded, your request may take considerable time to complete. The actual processing time will depend upon its complexity, whether it involves sensitive records, voluminous records, extensive searches, consultation among DoD components or other agencies, and our administrative workload which is listed in block 3 above.

If you have any questions or would like to discuss how to limit your request in order to speed up the processing time, please call:

(b)(6)

and ask for

(b)(6)

(b)(6)

Office of Freedom of Information and Security Review
Room 2C757, 1155 Defense Pentagon, Washington, DC 20301-1155



**DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

OCT 31 2006

Ref: 07-F-0084
20061926DOD293

Mr. Roger Strother
National Security Archive
Gelman Library, Suite 701
2130 H. St., NW
Washington, D.C. 20037

Dear Mr. Strother:

This is the final response to your electronic Freedom of Information Act request dated October 13, 2006, for "all documents and records including, but not limited memoranda, transcripts, talking points, charts, lines of operation, Secure Video Teleconference (SVTC) recordings, notes, and slides, regarding the December 28, 2001 briefing of President George W. Bush by General Thomas "Tommy" Franks at Crawford, Texas." The Washington Headquarters Services, Executive Services Directorate conducted a search of their files and located no records responsive to your request.

Should you deem this no record response to be a denial of your request, you may submit an administrative appeal to James Hogan, Chief, Policy, Appeals and Litigation Branch at the above address. Your appeal should be postmarked within 60 calendar days of the date of this letter, should cite to case number 07-F-0084, and should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

(b)(6)

A large rectangular box with a black border, filled with a solid gray color, redacting the signature of Will Kammer. The text "(b)(6)" is written in the top left corner of the box.

✓ Will Kammer
Chief



**DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

JAN 22 2008

Ref: 07-A-1695

SC 07-038

SC 06-100

MEMORANDUM FOR: U.S. SOUTHERN COMMAND

ATTN: (b)(6)

SCJ1-A (FOIA)

3511 NW 91ST AVENUE

MIAMI, FL 33172-1217

SUBJECT: Freedom of Information Act (FOIA) Appeal – Mr. Jeremy Bigwood

Attached is an appeal of your determination pertaining to the response to the requester in the cases referenced above. In order for the Deputy Director, Administration and Management to fulfill responsibilities as the appellate authority, the following is requested:

Conduct another review of the information previously denied to the requester, and provide your recommendations as to the release of the information. For any information which you recommend not to be released, enclose that information in brackets on one copy of the documents and send it to this office. Cite the FOIA exemption(s) invoked for any recommended withholding, and your rationale for denial. Also, include another copy of the documents which are "clean," with no markings or brackets. We have also attached a copy of your initial response letter to assist you in processing this appeal.

Provide a copy of the initial request and any additional comments which will assist in evaluating the appeal.

Please forward your response to this office by February 19, 2008. You may direct any questions concerning this appeal to Mrs. Angela Campagna at (b)(6) or

(b)(6)

(b)(6)

James P. Hogan
Chief, FOIA Policy, Appeals and Litigation
Branch

Attachments:

As stated



SECRET
DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

SEP 2

Ref: 07-A-1695

MEMORANDUM FOR DEFENSE INTELLIGENCE AGENCY

ATTN: DAN-I A RM E4-234
WASHINGTON, D.C. 20340-5100

SUBJECT: Freedom of Information Act (FOIA) Appeal – Mr. Jeremy Bigwood

Attached are copies of the appeal, initial FOIA request, the initial response to the requester, United States Southern Command's (USSOUTHCOM) appellate recommendation and the responsive documents in the case referenced above. In order for the Deputy Director, Administration and Management to fulfill responsibilities as the appellate authority, we ask that do the following:

Please conduct a review of the information previously denied to the requester and provide your recommendations as to the release on appeal. The information highlighted in yellow was previously withheld and is now being recommended for release by USSOUTHCOM. For any information which you recommend remain exempt, enclose that information in brackets and send the bracketed documents to this office. Cite the FOIA exemption(s) invoked for any recommended withholding and provide your rationale for denial, along with any additional comments which will assist in evaluating the appeal.

Please forward your response to this office by October 15, 2011. You may direct any questions concerning this appeal to Ms. Danaeka Spear at (b)(6) or

(b)(6)

Sincerely,

(b)(6)

(s) James P. Hogan
Chief

Attachments:

- (1): Mr. Bigwood's initial FOIA request
- (2): Supplemental initial FOIA request
- (3): DoD's initial response to the Mr. Burr,
- (4): Mr. Bigwood's Appeal response
- (5): USSOUTHCOM's appellate recommendation
- (6): Responsive documents

**UNCLASSIFIED WHEN SEPARATED
FROM CLASSIFIED ENCLOSURE**

SECRET



~~SECRET~~
DEPARTMENT OF DEFENSE
DEFENSE FREEDOM OF INFORMATION POLICY OFFICE
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

Ref: 07-A-1695

MEMORANDUM FOR DEPARTMENT OF STATE
DIRECTOR, INFORMATION PROGRAMS AND SERVICES
ROOM 8113 SA-2
WASHINGTON, DC 20522-81130
ATTN: MARGARET GRAFELD

SUBJECT: Freedom of Information Act (FOIA) Appeal – Mr. Jeremy Bigwood

Attached are copies of the appeal, initial FOIA request, the initial response to the requester, United States Southern Command's (USSOUTHCOM) appellate recommendation and the responsive documents in the case referenced above. In order for the Deputy Director, Administration and Management to fulfill responsibilities as the appellate authority, we ask that do the following:

Please conduct a review of the information previously denied to the requester and provide your recommendations as to the release on appeal. The information highlighted in yellow was previously withheld and is now being recommended for release by USSOUTHCOM. For any information which you recommend remain exempt, enclose that information in brackets and send the bracketed documents to this office. Cite the FOIA exemption(s) invoked for any recommended withholding and provide your rationale for denial, along with any additional comments which will assist in evaluating the appeal.

Please forward your response to this office by October 15, 2011. You may direct any questions concerning this appeal to Ms. Danaeka Spear at (b)(6) or

(b)(6)

Sincerely,

(b)(6)

James P. Hogan
Chief

Attachments:

- (1): Mr. Bigwood's initial FOIA request
- (2): Supplemental initial FOIA request
- (3): DoD's initial response to the Mr. Burr.
- (4): Mr. Bigwood's Appeal response
- (5): USSOUTHCOM's appellate recommendation
- (6): Responsive documents

**UNCLASSIFIED WHEN SEPARATED
FROM CLASSIFIED ENCLOSURE**

~~SECRET~~

COPY

Jeremy Bigwood

Investigative Reporter and Photojournalist

(b)(6)

FREEDOM OF INFORMATION ACT APPEAL
Bolivia's Chinese-made SAMs/MANPADS
Ref: SC 07-038, SC 06-100

James Hogan,
Chief, Policy, Appeals, and Litigation Branch
Department of Defense
Office of Freedom of Information
1155 Defense Pentagon
Washington, DC 20301-1155

Monday, April 5th, 2007

Dear Mr. Hogan:

Through this letter, I am appealing the United States Southern Command's (USSOUTHCOM's) decision to withhold material (two documents) under Exemptions B1 and B6 responsive to my FOIA request.

I would like DoD to go over the records exempted under Exemption B1 and B6 to determine if any more such material can be released to me.

Material was also withheld to me under FOIA exemption B2. I accept this withholding and am not appealing any of the B2 excisions.

Thank you for your time and consideration. If you have any questions, feel free to give me a call, send me an e-mail, or write me a letter. My contact information can be found above. Thanks again.

Sincerely,

(b)(6)

Jeremy E. Bigwood



**DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

JAN 22 2008

Ref: 07-A-1695

SC 07-038

SC 06-100

Mr. Jeremy Bigwood

(b)(6)

Dear Mr. Bigwood:

This is in response to your April 5, 2007, Freedom of Information Act (FOIA) appeal.

Due to an extremely heavy FOIA workload, we are unable to complete your appeal within the statutory time requirement. In fairness to the general public, we make every effort to treat all requesters equally. Accordingly, responses are made on a first-in, first-out, easy-hard basis, and controlled in response queues. When the appellate review of your case is complete, you will be notified by the appellate authority, the Deputy Director of Administration and Management, Office of the Secretary of Defense, of the final decision. You may direct any questions concerning this appeal to Ms. (b)(6) at (b)(6) or

(b)(6)

Sincerely,

(b)(6)

James P. Hogan
Chief, FOIA Policy, Appeals and Litigation
Branch

Jeremy Bigwood

Investigative Reporter and Photojournalist

(b)(6)

FOIA REQUEST
Chinese SAMs [MANPADS] in Bolivia

Mr. Marco T. Villalobos
Freedom of Information Act Office
USSOUTHCOM
3511 NW 91st Avenue,
Miami, FL 33172-1217

Monday, December 18, 2006

Dear FOIA Officer:

In my capacity as an investigative journalist, I am writing your office to request all records, regardless of format, medium, or physical characteristics, and including electronic records and information, audiotapes, videotapes and photographs, pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. §§ 552 *et seq.*

This request relates to any records that your Agency may possess regarding **Chinese SAMs [MANPADS] in Bolivia at any time since 1995.**

Please search for responsive records regardless of format, medium, or physical characteristics. This includes electronic records, audiotapes, videotapes and photographs, telephone messages, voice mail messages, daily agenda and calendars, information about scheduled meetings, whether in person or over the telephone, agendas for those meetings, participants included in those meetings, minutes of any such meetings, the topics discussed at those meetings, e-mail regarding meetings, e-mail or facsimiles sent as a result of those meetings, and transcripts and notes of any such meetings.

I would like this request to be processed under the "representative of the news media" category, which entitles me to a waiver of costs accumulated during the actual search and review process. I understand that in order to comply with the requisites of the "freelance" category of the "representative of the news media" requirements of the FOIA, which entitle me to gratuitous searches of your archives, I must offer you proof of said status. However, in accordance with the principles and spirit of the Paperwork Reduction Act (PRA) of 1995, whose stated goals are "to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public..." in lieu of sending you photocopies to attest to my due inclusion into this status, I include the following Internet URL (<http://jeremybigwood.net/JBsPUBS/Articles4FOIA.htm#>) where digital facsimiles of articles I have published can be found. These articles alone are sufficient to fulfill the stated requirement of a long track record of publication and the likelihood of further publication and clearly bestow upon me "representative of the news media" status. You will note that I also publish whole FOIA responses from various US government entities at: (<http://jeremybigwood.net/FOIAs/FOIA.htm>).



REPLY TO
ATTENTION OF

**DEPARTMENT OF DEFENSE
UNITED STATES SOUTHERN COMMAND
3811 NW 81ST AVENUE
MIAMI, FL 33172-1217**

April 06, 2007

Directorate of Manpower, Personnel
and Administration

Ref: SC 07-038
SC 06-100

Mr. Jeremy Bigwood

Dear Mr. Bigwood:

This is our final response to your Freedom of Information Act (FOIA) requests dated January 31, 2006 and December 18, 2006, case control numbers SC 06-100 and SC 07-038, respectively. In your request you requested information related to the Bolivia's Chinese made Surface Air Missiles (SAMs) and Man Portable Air Defense Systems (MANPADS).

During our search for information responsive to your request, we located two documents consisting of five pages. However, upon completion of our line-by-line review, we determined the information within the documents is currently and properly classified in accordance with Executive Order 12958, as amended, Section 1.4 (a), which pertains to military plans, weapons systems, or operations; (b), which pertains to foreign government information; and (c), which pertains to intelligence activities (including special activities), intelligence sources or methods; and (d), which pertains to foreign relations or foreign activities of the United States, including confidential sources. Other information if released would allow circumvention of physical security procedures and force protection measures by openly giving insight into the security capabilities or vulnerabilities concerning the protection of our agency property, personnel, and sources. Release of other information would constitute a clearly unwarranted invasion of the personal privacy of individuals. Accordingly, release of this information is denied pursuant to Title 5 U.S.C. § 552 (b) (1), (b) (2), and (b) (6), Freedom of Information Act by Captain Donna Sue Holly, USN, Vice Director of Intelligence and Colonel Stephen A. Medeiros, USMCA, Vice Director, Strategy, Policy, and Security Cooperation.

Should you deem Captain Holly's and Colonel Medeiros' decision of denying all this information to be an adverse action, you have the right to appeal their decision by writing to the Office of Freedom of Information, 1155 Defense - Pentagon, Washington, D.C. 20301-1155, within 60 days of receipt of this letter. Both your letter and envelope should be clearly marked "Freedom of Information Act Appeal." A copy of this letter should be enclosed with your appeal. Please refer to the above case control number SC 07-038.

With this action I am administratively closing this matter. There are no assessable fees associated with this response. Address any further questions to the undersigned at (305) 437-1108.

Sincerely,

(b)(6)

Marcó I. Villalobos
FOIA/PA Disclosure Officer

FOI/PA CASE ASSIGNMENT WORKSHEET

Case No: 07-A-1695-11

ACTION ASSIGNED TO CAH/PIC/NA TEAM: A B C PMB REVIEWER (b)(3) CARD
 TYPE REQUEST: Appeal Commercial Educational News/Media NonCom/Scientific Other
 EXPEDITED RESPONSE REQUESTED GRANT? Y N DCII CHECK
 UP-FRONT DOCUMENT SEARCH DATE RECEIVED:
 REMARKS:

CLOSED WITHDRAWN

E-FOIA REPLY

(ASBCA) Armed Services Board of Contract Appeals	
(AT&L) Acquisition, Technology, & Logistics	
(A&T) Acquisition & Technology	
(DAU) Defense Acquisition University	
(DPAP) Defense Procurement & Acquisition Policy	
(DARC) Defense Acquisition Regulation Council	
(PSA) Portfolio Systems Acquisition	
(TC) Treaty Compliance	
(SBP) Small Business Programs	
(BT) Business Transformation	
(BTA) Business Transformation Agency	
(DDR&E) Defense Research and Engineering	
(AS&C) Advanced Systems & Concepts	
(DARPA) Defense Advanced Research Projects Agency	
(DMEA) Defense Micro Electronics Activity	
(DSB) Defense Science Board	
(I&E) Installations & Environment	
(ECOADJ) Economic Adjustment	
(L&MR) Logistics & Material Readiness	
(IC) International Cooperation	
(MDA) Missile Defense Agency	
(NCB) Nuclear, Chemical, & Biological Defense Programs	
(SPPGMS) Special Programs	
(ATSDIO) Assistant to the Secretary of Defense (Intelligence Oversight)	
(COMP) Comptroller	
(PA&E) Program Analysis & Evaluation	
(DPO) Defense Privacy Office	
(EXSEC) The Exec. Secretariat	

(I) Intelligence	
(CIFA) Counterintelligence Field Activity	
(JS) Joint Staff	
(LA) Legislative Affairs	
(NDU) National Defense Univ.	
(NII) Networks and Information Integration	
(NSPS) National Security Personnel System	
(NSSG) National Security Study Group	
(ODNA) Office of the Director, Net Assessment	
(OGC) Office of General Counsel	
(DOHA) Director, Office of Hearings and Appeals	
(OSAWHL) Office of the Special Assistant to the Secretary of Defense for White House Liaison	
(PA) Public Affairs	
(DVIC) Defense Visual Information Center	
(P&R) Personnel & Readiness	
(CPMS) Civilian Personnel Management Service	
(DEOMI) Defense Equal Opportunity Management Institute	
(DMDC) Defense Manpower Data Center	
(SIAD) Statistical Information Analysis Division	
(FVAP) Federal Voting Assistance Program	
(HA) Health Affairs	
(DHSD) Deployment Health Support	
(RA) Reserve Affairs	
(USUHS) Uniformed Services University of Health Sciences	
(PFPA) Pentagon Force Protection Agency	
(USDP) USD (Policy)	
(AP) Asian & Pacific Security Affairs	
(CEN) Central Asia	

(EAS) East Asia	
(SEA) South and Southeast Asia	
(IS) International Security Affairs	
(AFR) Africa	
(EUR) Europe & NATO	
(MID) Middle East	
(GS) Global Security Affairs	
(CMO) Coalition Affairs	
(GTS) Counternarcotics, Counterproliferation, and Global Threats	
(DPO) Detainee Affairs	
(MPA) Defense POW Missing Personnel Affairs Office	
(DSCA) Defense Security Cooperation Agency	
(DTSA) Defense Technology Security Administration	
(PRT) Partnership Strategies	
(HD) Homeland Defense and America's Security Affairs	
(CMC) Crisis Management & Defense Support for Civil Authorities	
(HLD) Homeland Def.	
(HSI) Homeland Security Integration	
(WHA) Western Hemisphere Affairs	
(POUSDP) Policy Director	
(PPO) Policy Planning	
(SPD) Support for Public Diplomacy	
(SO/LIC) Special Operations and Low Intensity Conflict	
(FT&R) Forces Transformation & Resources	
(SOC) Special Operations	
(STB) Stability Operations	
(STR) Strategic Capabilities	

(WHMO) W. H. Military Office	
(WHS) Washington Headquarters Service	
(A&P) Acquisition & Procurement	
(ESD) Executive Services Directorate	
(GC) General Counsel	
(HRD) Human Resources	
(PENREN) Pentagon Renovation	
No Nexus Response	
Not a Proper Request Reply	
Not Reasonably Described	
No Records Response	
Not an Agency Record	
Verification Response	

ARMY	DTRA	
NAVY	NGA	
USAF	NGB	
USMC	NSA	
	NSC	
CENTCOM	SHAPE	
EUCOM	TRICARE	
JFCOM		
NORTHCOM		
PACOM	CIA	
SOCOM	C. GUARD	
SOUTHCOM	DEA	
STRATCOM	DHS	
TRANSCOM	DOE	
	DOJ	
DCAA	DOL	
DCMA	FAA	
DECA	FBI	
DFAS	FEMA	
DIA	GSA	
DISA	NARA	
DLA	NPRC	
DoDIG	OPM	
DoDEA	SEC. SVC.	
DSS	STATE	
OTIC	VA	



Richard Lardner
Reporter

August 8, 2007

OFOI
1155 Defense Pentagon
Room 2C757
Washington, DC 20301-1155

Ref: FOIA Req. Control # 2007-076

Attn: FOIA Administrative Appeal

Dear Mr. Bell:

Under provisions of the Freedom of Information Act and under the Electronic Freedom of Information Act, 5 U.S.C 552, I am filing this administrative appeal to U.S. Special Operations Command's denial of my longstanding request for any and all information related to written and/or verbal correspondence between the command and retired Army CSgtM Eric Haney over the creation and copyright of a military emblem and logo.

That emblem and logo has been (and may currently be) used by the 1st Special Forces Operational Detachment-Delta, more commonly known as Delta Force.

In a July 6 letter, Special Operations Command said it had denied my request because the information is classified. The command cited 5 USC 552 (b)(1).

No explanation is provided as to why the information is classified, who determined it should be classified, and what public or private interest is protected or advanced by its remaining classified.

Delta Force, based at Fort Bragg, NC, has been the subject of media coverage for many years and the logo has appeared on the covers of books written by former unit members, including Eric Haney.

The following are a few of the authoritative books written by ex-military personnel and that include detailed descriptions of Delta Force:

"Inside Delta Force," by Eric Haney. The book's cover shows the logo/emblem: a sword covered by a triangle-shaped thunderbolt.

"The Guts To Try," by retired Air Force Col. James Kyle.

(b)(6)

A rectangular black box used to redact information, likely a signature or contact details.

"No Room For Error," by retired Air Force Col. John Carney.

"Delta Force," by retired Army Col. Charlie Beckwith, the founder of Delta Force. The logo/emblem is featured prominently on the cover of his book.

Additionally, former Army Chief of Staff Gen. Peter Schoomaker includes several references to 1st Special Force Operational Detachment-D in his official career summary.

Army Maj. Gen. John Mulholland also makes specific reference to his time "Delta Force" in his official career summary.

As the above clearly demonstrates, references to Delta Force and its logo/emblem are public knowledge. There are even disclosures sanctioned by the U.S. Army.

When I requested the information well over a year ago, I was a reporter with The Tampa Tribune. I am now a reporter with the Associated Press in Washington, DC.

My original FOIA request for this information was filed with the U.S. Army Special Operations Command, Ft. Bragg, NC. That request was given case number 06-55(J).

The information I requested is urgently needed by the AP, which is engaged in disseminating information in order to inform the public of alleged or actual federal government activities.

I would appreciate your handling this request as quickly as possible.

Richard Lardner
The Associated Press

(b)(6)



Encl:

Copy of July 6, 2007, denial letter from Special Operations Command;

Copy of March 12, 2007, letter from Special Operations Command;

Copy of December 5, 2006, letter from Army Special Operations Command;

Copy of May 16, 2006, original FOIA request for information.



DEPARTMENT OF DEFENSE
OFFICE OF FREEDOM OF INFORMATION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

14 AUG 2007

Ref: 07-A-2335
2007-076

Mr. Richard Lardner
The Associated Press

(b)(6)

Dear Mr. Lardner:

This is in response to your August 8, 2007, Freedom of Information Act (FOIA) appeal.

Due to an extremely heavy FOIA workload, we are unable to complete your appeal within the statutory time requirement. In fairness to the general public, we make every effort to treat all requesters equally. Accordingly, responses are made on a first-in, first-out, easy-hard basis, and controlled in response queues. When the appellate review of your case is complete, you will be notified by the appellate authority, the Deputy Director of Administration and Management, Office of the Secretary of Defense, of the final decision.

Sincerely,

(b)(6)

James P. Hogan
Chief, FOIA Policy, Appeals and Litigation
Branch

THE TAMPA TRIBUNE

LIFE. PRINTED DAILY.

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May 16, 2006

Commander
U.S. Army Special Operations Command
Chief Information Office/G-6
ATTN: AOIM-ISM (FOIA Office)
Fort Bragg, NC 28310-9110

Dear Sirs:

This is a request under the Freedom of Information Act (5 U.S.C. 552).

I request that copies of any and all documents (to include hard copies of electronic messages) related to the artistic creation, approved use and eventual copyrighting of the emblem/logo used by 1st Special Forces Operational Detachment-Delta (Delta Force) be provided to me.

Included with these documents I am requesting any correspondence related to the creation, use and copyrighting of the 1st SFOD-D emblem/logo between 1st SFOD-D, USASFC, USASOC and/or USSOCOM and Eric Lamar Haney, a former Delta operator.

I am a representative of the news media affiliated with The Tampa Tribune, a daily newspaper, and this request is made as part of news gathering and not for a commercial use.

I am willing to pay fees for this request up to a maximum of \$50. If you estimate the fees will exceed this limit, please inform me first.

However, as a member of the news media, I would that expect any fees be waived because disclosure of the requested information to me is in the public interest.

I understand an executive order signed by the president in December improves the public's access to government records. Accordingly, I look forward to a timely response.

Sincerely,

(b)(6)

Richard Lardner
Military Affairs Reporter
The Tampa Tribune

(b)(6)



(b)(6)

#06-55(J)
Encl 1



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY
SPECIAL OPERATIONS COMMAND
FORT BRAGG, NORTH CAROLINA 28310

December 5, 2006

Information Systems Management
Branch

Mr. Richard Lardner
The Tampa Tribune

(b)(6)

Dear Mr. Lardner:

This is regarding your Freedom of Information Act (FOIA) request that was received by this office May 16, 2006. You requested records pertaining to the creation, use and copywriting of an emblem/logo.

Your request has been referred to the U.S. Special Operations Command. The mailing address is:

Commander in Chief, U.S. Special Operations
Command (USSOCOM)
SOCS-SJS-I, USSOCOM FOIA Program Manager
7701 Tampa Point Boulevard
MacDill, Air Force Base, Florida 33621-5323

If you have any questions concerning this referral, please write to the address above and refer to USASOC FOIA Case Number #06-55(J).

Sincerely,

(b)(6)

James E. Granger
Colonel, U.S. Army
Chief Information Officer/G-6



UNITED STATES SPECIAL OPERATIONS COMMAND

7701 TAMPA POINT BOULEVARD
MACDILL AIR FORCE BASE, FLORIDA 33621-5323

March 12, 2007

Command Freedom of Information/Privacy Act Division

Mr. Richard Lardner
The Tampa Tribune

(b)(6)

Dear Mr. Lardner:

We received your Freedom of Information Act (FOIA) request for all information related to a Special Forces Logo. We've assigned it United States Special Operations Command (USSOCOM) FOIA control number 2007-076, and is being processed in accordance with procedural requirements promulgated in DoD Regulation 5400.7-R which is available on the Internet at: <http://www.defenselink.mil/pubs/foi/>. Please refer to this number should you have any questions concerning your request. The actual processing time will depend upon its complexity, whether it involves sensitive records, voluminous records, extensive searches, consultation among DoD components or other agencies, and our administrative workload, approximately 180 cases.

We have placed you in the "News Media" category for fee purposes. This means you are obligated to pay for all duplication costs after the first 100 pages. You have agreed to pay the amount of \$50; however, in most cases we make every effort to send out responses electronically at no cost to the requester

The USSOCOM FOIA Office has a substantial number of pending FOIA cases and, therefore, we process requests in a multi-track processing system based on the date of receipt and the amount of work and time involved in processing each request. It is likely that processing your request will exceed the statutory 20-working day time limit. It is possible that narrowing the scope of your request may result in a shorter processing time. If you wish to discuss this or have any other questions or concerns, please contact me at FOIA@socom.mil.

Sincerely,

(b)(6)

Phyllis D. Holden
Command FOIA Program Officer



Proven • Vigilant • Prepared
in the past today for the future