



UNITED STATES SPECIAL OPERATIONS COMMAND

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

August 29, 2014

Command Freedom of Information/Privacy Act Division

Mr. John H. Clarke
1629 K Street, NW
Suite 300
Washington, DC 20006

Dear Mr. Clarke:

We have received your Freedom of Information Act (FOIA) request on behalf of Accuracy in Media, Inc. (copy attached) and have assigned it USSOCOM FOIA 2014-145. Please refer to this number should you have any questions concerning your request.

Your request is being processed in accordance with procedural requirements promulgated in Department of Defense (DoD) Regulation 5400.7-R which is available on the Internet at: <http://www.defenselink.mil/pubs/foi/>. 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.

We have placed you in the "News Media" category for fee purposes. This means you are obligated to pay assessable duplication charges after the first 100 pages; however, depending on the size of the documents, we may provide the final release on CD and no fees would be assessed.

The USSOCOM FOIA Office has a substantial number of pending FOIA cases, 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. We estimate the time for completion to be approximately 6-9 months; it could be more or less. 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 this office at FOIA@socom.mil.

Sincerely,

A handwritten signature in cursive script that reads "Connie H. Rupp".

Connie H. Rupp
USSOCOM Freedom of Information/
Privacy Act/Civil Liberties Officer

Attachment

Law Office
John H. Clarke
1629 K Street, NW
Suite 300
Washington, DC 20006
(202) 332-3030
JohnHClarke@earthlink.net

Also Admitted in Virginia
and Maryland

FAX: (202) 332-3030
CELL: (202) 344-0776

March 31, 2014

By Certified Mail — Return Receipt Requested
Article Number 7013 2630 0000 5201 4330

FOIA REQUEST

HQ USSOCOM (Special Operations Command)
ATTN: SOCS-SJS-I/FOIA Requester Service Center
7701 Tampa Point Boulevard
MacDill AFB, FL 33621-5323

Re: FOIA Requests

Dear Ladies and Gentlemen:

This is a request for production of records under the Freedom of Information Act, 5 USC § 552, the "FOIA." I write on behalf of Accuracy in Media, Inc., a District of Columbia 501(c)(3) non-profit corporation, as well as the following eight individuals, all of whom serve as members of the "Citizens' Commission on Benghazi," an unincorporated, informal association of individuals, all working with Accuracy in Media. They are (1) Roger Aronoff, (2) Larry Bailey, (3) Kenneth Benway, (4) Dick Brauer, (5) Clare Lopez, (6) James A. Lyons, Jr., (7) Kevin Shipp, and (8) Wayne Simmons.

Requests. These FOIA requests are for disclosure of records regarding the attack on US facilities in Benghazi, Libya, on September 11th and 12th, 2012. Specifically, we seek production of:

1. **Rota.** Records revealing the status of two Marine Corps Fleet Antiterrorism Security Teams ("FAST"), at the Spanish naval base Naval Station Rota ("NAVSTA Rota"), including:
 - (a) All communications with, and orders to, NAVSTA Rota personnel to get ready to deploy, and, if applicable, to deploy, to Benghazi; and

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- (b) All communications from NAVSTA Rota personnel notifying command that assets were ready to deploy, and, if applicable, that aircraft was airborne, bound for Benghazi, and, if applicable, orders to abort or turn back.

- 2. **Croatia.** Records regarding the readiness status of, and orders given to, airborne special operations unit, "Commanders In-extremis Force" ("CIF"), assigned to the European Command, and in Croatia, including:
 - (a) Orders for the CIF to deploy to NAS Sigonella; and
 - (b) All communications from the CIF notifying command that it was ready to deploy, and, if applicable, that aircraft was airborne, bound for NAS Sigonella, and, if applicable, orders to abort or turn back.

- 3. **United States.** Records disclosing the readiness status of, and orders given to, Special Operations Forces ("Special Ops" or "SOF") in the United States, including:
 - (a) Orders for Special Ops to deploy to Libya; and
 - (b) Communications from SOF notifying command that it was ready to deploy, and, if applicable, that aircraft was airborne, bound for Libya, and, if applicable, orders to abort or turn back.

- 4. **"Feet dry over Libya" radio transmission.** Any record of transmission from any aircraft during the crisis that stated, "Feet dry over Libya," or words to that effect, informing that aircraft was transitioning from above the Mediterranean Sea to above the Libyan landmass.

Kindly note that Request No. 1, regarding orders given to the two Marine Corps Fleet Antiterrorism Security Teams at Naval Station Rota, is being simultaneously submitted to (a) the Commandant of the Marine Corps, and (2) HQ USEUCOM (U.S. European Command). Request No. 2, seeking orders given to the Commanders In-extremis Force in Croatia, is also being made to (a) the Department of the Army, and (b) HQ USEUCOM (U.S. European Command). Request No. 4, for the radio transmission recording, "Feet dry over Libya" or the like, is also submitted to (a) the Air Force, and (b) HQ U.S. AFRICOM (U.S. Africa Command).

Expedited Processing. These FOIA requests are subject to expedited processing under DoD Regulation 5400.7-R, "Department of Defense Freedom of Information Act Program," 32 CFR Part 286. Specifically § C1.5.4.3 mandates expedited processing "to a requester after the requester requests such and demonstrates a compelling need for the information." Under § C1.5.4.3.2:

A compelling need also means that the information is urgently needed by an individual primarily engaged in disseminating information in order to inform the public concerning actual or alleged Federal Government activity.... Representatives of the news media (see paragraph C6.1.5.7., below) would normally qualify as individuals primarily engaged in disseminating information.

Accuracy in Media, Inc. ("AIM") is a "representatives of the news media," entitling it to a statutory fee waivers, as set forth below. Kindly accept this letter as a certification that the information contained herein is true and correct to the best of the requesters' knowledge, under § C1.5.4.3.3:

A demonstration of compelling need by a requester shall be made by a statement certified by the requester to be true and correct to the best of their knowledge. This statement must accompany the request in order to be considered and responded to within the 10 calendar days required for decisions on expedited access.

Request for Waiver of Search and Review Fees. As a representatives of the news media, AIM submits that it is entitled to a waiver of any fees associated with the search and review of records responsive to these FOIA Requests, under 5 U.S.C. § 552 (a)(4)(A)(ii)(II). See generally DoD Regulation 5400.7-R, "Department of Defense Freedom of Information Act Program," 32 CFR Part 286.

AIM is organized and operated to publish or broadcast news to the public, and has been doing so for more than 45 years. It clearly meets the standard of "representative of the news media" status. A "representative of the news media" is "a person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience." *Nat'l Sec. Archive v. Dep't of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989).

Upon disclosure of the records sought, AIM has concrete plans to make the information public. Its ability and intent to disseminate the information requested is beyond question. Accuracy in Media articles on the subject include, "The MSM and Benghazi: Will Their Coverage Harm Obama Administration?," "Shameful Media Coverage of Benghazi Scandal and Cover-up," "Media Embrace Obama's Controversial Picks for National Security Team," "New York Times Attempts to Blur Benghazi Scandal," "McClatchy Reporter Changes Tune on Benghazi," "CBS in Damage Control Over Error-Filled Benghazi Report," "'60 Minutes' Reveals Little New in Benghazi Exposé," "The Left's Continued Assault on the Truth About Benghazi," "Media Coverage of Benghazi Leans Toward Political Theater," "Conservative Leaders Call on Speaker Boehner: Form a Select Committee on Benghazi," "Further Proof That Obama Knew the Truth About Benghazi," "Blaming the Victim in BenghaziGate," "Obama and His Media Loyalists Still Spinning Benghazi," and "Does Navy Map Alter the Benghazi Narrative?"

Additionally, several of the individual requesters have published a number of articles about the matter. See, for examples, "Navy SEAL: 'There's guilt in this administration,'" by Captain Larry Bailey, published in WND.com in April of 2013; two articles by Clare Lopez appearing in Pundicity.com in October of 2012, "Benghazi: The Set-Up and the Cover-Up," and "Did Turkey Play a Role in Benghazi Attack?," and Admiral James Lyons' pieces appearing in the Washington Times, "Obama's Chain of Command Unravels Over Benghazi (October 2012)," "Obama needs to come clean on what happened in Benghazi" (October 2012), "The Key Benghazi Questions Still Unanswered" (January 2013), "A hard slog to get Benghazi answers" (January 2013), and "A call to Courage over Benghazi" (May 2013).

Public Interest Fee Waiver. 5 U.S.C. § 552(a)(4)(A)(iii) provides that "[d]ocuments shall be furnished without any charge or at a charge reduced... if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester."

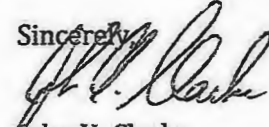
Here, the FOIA requesters do not have a commercial interest in the disclosure. Their purpose is to inform the public. The subject of the requested records concerns the operations or activities of the United States Government. The information sought is directed at finding out what information the government has about its failure to timely respond when its facilities came under attack. These FOIA Requests also concern what information the government did not provide to the public, as well as congressional investigators.

Upon disclosure, AIM, as well as other several of the individual requesters, has concrete plans to make the information public, as demonstrated above. The information sought would be likely to contribute to an understanding of United States Government operations or activities, and disclosure will enhance public understanding of the Benghazi incident as compared with awareness prior to the disclosure. The interest of enhancing the public's understanding of the operations or activities of the U.S. Government is clear, and the records' connection to these government activities is direct.

Electronic Format. Kindly produce these records in electronic format. See e-FOIA amendment 5 U.S.C. § 552 (a)(3)(B), as amended, requiring Agency to "provide the record in any form or format requested . . . if the record is readily reproducible by the agency in that form or format." See FOIA Update Vol. XVII, No. 4, 1996.

Reply to Accuracy in Media. If you have any questions about handling this request, please ask via email, to JohnHClarke@earthlink.net. Otherwise, kindly respond, and produce records, to Accuracy in Media, 4350 East West Highway, Suite 555, Bethesda, MD 20814-4582.

Sincerely,



John H. Clarke

cc: Accuracy in Media, Inc.
Roger Aronoff
Larry Bailey
Kenneth Benway
Dick Brauer
Clare Lopez
James A. Lyons, Jr.
Kevin Shipp
Wayne Simmons