

QUEUE POSITION	S/C/E/A Category	REQUEST NUMBER	DATE RECEIVED (DoD Date)	SUSPENSE GOAL Red=Overdue	REQUESTOR (Last, First)	CURRENT CASE STATUS/DATE OF LAST ACTION	ACTION OFFICER
						White = Awaiting Records, Green = Legal Review, Yellow = On Hold Pending Requestor, Red = OIP Action Needed; Purple = Ready for Redacting, Orange = In for IDA Review	
1	Complex	2011-01451-F	8-Mar-10	ASAP	McLravy, Charles	113 WG put records on GKO site (12/20/10)	JN
2	Appeal	2010-00107-A	12-Apr-10	30-Jun-10	Willits, Marty	to Ad Law for legal review (12/15/10)	JN
3	Complex	2010-05422-F	15-Jun-10	31-Aug-10	Sinder, Scott	tasked to A3 & JA For record search w/ 6 Jul suspense (6/25/10); f/u sent 8/9/10; f/u sent again 8/30/10 (awaiting ops law only); tasked ANG RC (b) (6) (A1/A3) 9/7/10; f/u sent to A1 9/21/10; f/u sent 9/27/10; rcvd records 9/30/10 asked ANGRC To consolidate records into one centralized resp (10/10); reminder sent 11/8/10; A1 still working on review of records for exempt material and removal of duplicates (11/18/10); f/u sent to ANG RC 12/20/10 for status (b) (6) is (b) (5) 8/20/10; f/u sent 9/7/10; f/u sent 9/22/10; (b) (6) is working info paper to send to TX CoS (9/27/10); f/u sent to Ad Law 10/22/10; Ad Law sent notice to TX asking them to provide records (11/3/10); TX responded they will not provide; Ad Law emailed (b) (6) to assist (12/14/10); per (b) (5) (b) (6)	JN
4	Complex	2010-05839-F	24-Jun-10	31-Aug-10	Duggan, Kenneth	(b) (6)	JN
5	Complex	FA-10-0123	16-Jul-10	30-Sep-10	Wotycha, Laura	Records on X drive (11/3/10); Checking with Cons for agreement on submitter recommendations. 5 Nov 10; emailed AQ for original records (12/15/10)	RB

Not Responsive



**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** NGB FOIA  
**Sent:** Monday, December 20, 2010 12:48 PM  
**To:** 'McLravy, Charles'  
**Subject:** Acknowledgement of FOIA Request #2011-01451-F (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Mr. Charles McLravy  
Inside Edition

(b) (6)

New York, NY 10019

(b) (6)

Dear Mr. McLravy:

This letter is to acknowledge receipt of your Freedom of Information Act request dated March 8, 2010 to the Headquarters Air Force for records on travel by Speaker Nancy Pelosi to Copenhagen, Denmark between December 7 and December 22, 2009. Portions of your request were referred to our office on December 15, 2010 and this referral has been assigned case #2011-01451-F.

Your request is currently at position #1 in our queue for processing based on the original date received by Air Force. As a preliminary estimate only, we anticipate completion of your request by January 30, 2011; however, will make every effort to provide the responsive records as soon as possible. All communications concerning this request should be identified with the above reference number and addressed to the address shown below.

In your request, you asked for a waiver of all associated fees. As a requestor in the media fee category, we do not anticipate any charge for processing your request. If we find there is a need to charge fees we will make a determination on your fee waiver request at that time.

If you have questions regarding your request, please contact me at (703) 607-3195 or by e-mail, [FOIA@ng.army.mil](mailto:FOIA@ng.army.mil).

//SIGNED//

Jennifer Nikolaisen

Chief, Office of Information and Privacy NGB FOIA/Privacy Officer

(703) 607-3195

Fax (703) 607-3684

Office of Chief Counsel (NGB/JA-OIP)

1411 Jefferson Davis Highway, Ste 11300

Arlington VA 22202-3231

Classification: UNCLASSIFIED

Caveats: NONE

## **Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Monday, December 20, 2010 12:36 PM  
**To:** AF FOIA/PA  
**Subject:** New Significant FOIA Request (UNCLASSIFIED)  
**Attachments:** 2011-01451-F.pdf

Classification: UNCLASSIFIED  
Caveats: NONE

This was referred to us from AMC. Please note we are only able to answer part of Item 1 and Item 2; we assume AMC answered the other previously under case #2010-03147-F (original case number). Our new case is #2011-01451-F for our portion.

v/r  
Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

Office of Chief Counsel (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Ste 11300  
Arlington VA 22202-3231

Visit our "One-Stop Information Shop" sites on GKO for helpful information:  
<https://gkoportal.ngb.army.mil/sites/NGB-SpecialStaff/JA/foia/default.aspx>  
<https://gkoportal.ngb.army.mil/sites/NGB-SpecialStaff/JA/privacy/default.aspx>

Classification: UNCLASSIFIED  
Caveats: NONE

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Monday, December 20, 2010 12:33 PM  
**To:** (b) (6) NG NGB ARNG; (b) (6) NG NGB ARNG  
**Subject:** New ANG FOIAs (UNCLASSIFIED)  
**Attachments:** 2011-01451-F.pdf; 2011-01445-F.pdf

Classification: UNCLASSIFIED  
Caveats: NONE

FYSA - just logged in the attached two new FOIA requests for the ANG. We may be able to get these completed by the end of January; however, for all requests coming in right now I am giving an ECD of 15 Apr 11.

v/r  
Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

Office of Chief Counsel (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Ste 11300  
Arlington VA 22202-3231

Visit our "One-Stop Information Shop" sites on GKO for helpful information:  
<https://gkoportal.ngb.army.mil/sites/NGB-SpecialStaff/JA/foia/default.aspx>  
<https://gkoportal.ngb.army.mil/sites/NGB-SpecialStaff/JA/privacy/default.aspx>

Classification: UNCLASSIFIED  
Caveats: NONE

**Nikolaisen, Jennifer A Ms CIV NG NGB ARNG**

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**From:** Velazquez, Candice M Civ USAF AMC AMC/A6OK (b) (6)  
**Sent:** Wednesday, December 15, 2010 2:42 PM  
**To:** NGB FOIA  
**Subject:** Freedom of Information Act (FOIA) Referral - Mr. Charles McLravy FOIA Case 2010-03147-F  
**Attachments:** FOIA Request.pdf; Referral to requester.pdf  
**Signed By:** (b) (6)  
**Importance:** High

Good Evening,

The attached FOIA request is being referred to you in accordance with DoD Regulation 5400.7/Air Force Supplement, paragraph Cl.5.94.

The requester has been notified of this referral.

v/r

CANDICE VELAZQUEZ, CIV, DAFC

Command FOIA Manager

HQ AMC/A6OKR

203 W. Losey St, Rm 3640

SCOTT AFB IL 62225-5223

Comm: (618) 229-5402

DSN: 779-5402

FAX: 779-6139

Dear McLavy:

This is in response to your March 16, 2010 Freedom of Information Act request for a copy of Any and all documents regarding the implementation and cost of flights associated with the Congressional Delegation (CODEL) led by Speaker Nancy Pelosi to Copenhagen, Denmark between December 7th and December 22nd, 2009. 1) ALL COSTS associated with the CODEL include, but not be limited to, fuel, maintenance, and ancillary transportation. 2) The FLIGHT PLAN for this CODEL, which should include, but not be limited to, final and interim destinations, dates, manifests, and other special requests or circumstances.. We are not the office of primary responsibility (OPR) for item #2 of your request. Therefore, we are forwarding your request and documents to the following agency.

NGB/JA-FOIA  
1411 Jefferson Davis Highway  
Suite 11300  
Arlington VA 22202  
Fax (703) 607-3684  
FOIA@ng.army.mil

They will reply directly to you. There are no assessable fees for processing your FOIA request in this instance.

Sincerely

//signed//

CANDICE VELAZQUEZ, CIV, DAFC  
Command FOIA Manager  
HQ AMC/A6OKR  
203 W. Losey St, Rm 3640  
SCOTT AFB IL 62225-5223  
Comm: (618) 229-5402  
DSN: 779-5402  
FAX: 779-6139

### CERTIFICATION of CLASSIFICATION

**Case File: FOIA Case 2010-03147-F (UNCLASSIFIED)**

(To be internally within the DCANG ONLY [since records can be reviewed at the owning office] for any records requested by appropriate authority Outside the DCANG, classified records will be copied and properly transmitted to that agency).

Copy and use as many sheets as necessary. This is Sheet 1 of 1.

I hereby certify that after making a review of the records associated to the request listed above, the following records listed are classified as indicated. I certify that upon notification of a request for JAG review (if a review is needed), I will make those records available at the owning office.

<b>Title of Document (unclas name only) (that answers FOIA in part or in whole)</b>	<b>Document Classification</b>
<u>Mission Itinerary for Mission #16307, dated 22 Dec 2009</u>	<u>UNCLASSIFIED</u>
<u>AFTO Form 781, dated 17 Dec 2009</u>	<u>UNCLASSIFIED</u>
<u>AFTO Form 781, dated 19 Dec 2009</u>	<u>UNCLASSIFIED</u>
<u>AFTO Form 781, dated 20 Dec 2009</u>	<u>UNCLASSIFIED</u>
<u>FY 2010 Reimbursable Rates Fixed Wing, eff. 1 Oct 2009 (4 pgs)</u>	<u>UNCLASSIFIED</u>

The search included a physical search of the hard copy records, emails, microfiche, and any other records kept by this unit.

(b) (6)  
Printed Name of Unit Representative

7 Dec 2010  
Date

(b) (6)  
Signature

201AS/CCQ  
Unit/Office Symbol

Knowledge Operations Management  
Duty Title

**Encl 3**



DISTRICT OF COLUMBIA AIR NATIONAL GUARD  
201<sup>ST</sup> AIRLIFT SQUADRON  
1234 MENOHER DRIVE  
ANDREWS AIR FORCE BASE MARYLAND 20762-6519

7 Dec 2010

201AS/CC  
1234 Menoher Drive  
Andrews AFB, MD 20762-6519  
Name of Contact: (b) (6)

TO: 113<sup>th</sup> Wing PA/FOIA  
3252 East Perimeter Road  
Andrews AF MD 20762-5011  
Attn: (b) (6)

SUBJECT: Response to FOIA Case 2010-03147-F (UNCLASSIFIED)

In response to the request for records pertaining to FOIA Case 2010-03147-F (UNCLASSIFIED) (CODEL Pelosi), attached please find the documents that were found.

Enclosed are copies of the documents found regarding FOIA Case 2010-03147-F (UNCLASSIFIED):

- a. Mission Itinerary for Mission # 16307, dated 22 Dec 2009
- b. AFTO Form 781, dated 17 Dec 2009
- c. AFTO Form 781, dated 19 Dec 2009
- d. AFTO Form 781, dated 20 Dec 2009
- e. FY 2010 Reimbursable Rates Fixed Wing, effective 1 Oct 2009 (4 pgs)

If you have any questions, please contact (b) (6), FARM, 201<sup>st</sup> Airlift Squadron, at 240-857-6935/DSN 857-6935.

Sincerely,

(b) (6)

(b) (6), MSgt, DCANG  
Knowledge Operations Management

6 Atch

1. Mission Itin, dtd 22 Dec 2009
2. AFTO 781, dtd 17 Dec 2009
3. AFTO 781, dtd 19 Dec 2009
4. AFTO 781, dtd 20 Dec 2009
5. FY 2010 Reimbursable Rates, eff. 1 Oct 2009
6. Certification of Classification

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** Velazquez, Candice M Civ USAF AMC AMC/A6OK (b) (6) on  
behalf of AMC FOIA [AMCA6.FOIA@scott.af.mil]  
**Sent:** Thursday, December 02, 2010 3:17 PM  
**To:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** FOIA Case 2010-03147-F  
**Attachments:** FOIA Request.pdf; FW: FOIA Case 2010-03147-F - Need further Processing of Item #2 COB:  
18 ... (8.59 KB)  
**Signed By:** (b) (6)  
**Importance:** High

Good Evening,

Please review the FOIA request and the email attachment. AMC has answered item #1 of this request and it has been sent to DoD for review. Please let me know how to proceed with this request. Direct any questions to this office.

v/r

CANDICE VELAZQUEZ, CIV, DAFC

Command FOIA Manager

HQ AMC/A6OKR

203 W. Losey St, Rm 3640

SCOTT AFB IL 62225-5223

Comm: (618) 229-5402

DSN: 779-5402

FAX: 779-6139

March 8<sup>th</sup>, 2010

DELLA V. MACIAS  
HAF FOIA Disclosure Officer  
Headquarters Air Force Information Office (HAF/IMII)  
DSN: 223-2579  
Commercial: 703-693-2579

FOIA/PA Request  
Case No: 2011-01451-F  
Date Rcvd: 15 Dec 10  
Date Due: 31 Jan 11  
Rcvd By: NOB/SLA-DIP/JIO  
Refer by [signature] HAF ANS

**FOIA REQUEST**

Dear Ms Macias:

Pursuant to the federal Freedom of Information Act, 5 U.S.C. s. 552, I hereby request copies of any and all documents regarding the implementation and cost of flights associated with the Congressional Delegation (CODEL) led by Speaker Nancy Pelosi to Copenhagen, Denmark between December 7<sup>th</sup> and December 22<sup>nd</sup>, 2009.

Specifically, I am interested in:

ANG

1) ALL COSTS associated with the CODEL. These costs should include, but not be limited to, fuel, maintenance, military and civilian DOD personnel, wait time, lodging, and ancillary transportation. This request should also include ALL COSTS associated with providing food, drinks, and entertainment to members of the CODEL, including members of Congress, their spouses, guests or domestic partners, and any and all staff.

Ame

ANG

2) The FLIGHT PLAN for this CODEL, which should include, but not be limited to, final and interim destinations, dates, manifests, and other special requests or circumstances.

This request should include, but not be limited to, briefs, reports, analyses, investigations, final determinations and any exhibits including any audio or video recordings related to these CODELs.

Since this request is made in the public interest and the results hereof are intended for publication, I request all fees be waived. If all fees are not waived, please notify me prior to incurring any expenses in excess of \$100.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all non-exempt portions of otherwise exempt material. I, of course, reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

As I am making this request as a journalist and this information is of timely value, I would appreciate an expedited response. I would also appreciate your communicating with me by telephone or email if you have questions regarding this request. I look forward to your reply.

Very truly yours,

Charles McLravy  
Inside Edition

(b) (6)

New York, NY 10019

(b) (6) - Voice

(212) 586-1217 - Fax

(b) (6)

CASE STATUS LOG FREEDOM OF INFORMATION ACT/PRIVACY ACT		CASE # <u>2010-00107-A</u>
DATE	ACTION	ACTION OFFICER
15 Apr 10	ack sent	Jenny
16 Jun 10	Called TX ATAG so (b) (6) - he advised to email (b) (6) to conduct search - done w/ 23 Jun 10. Jenny	Jenny
30 Jun 10	TX JA about transcription - no response	
26 Aug 10	SO TX JA (b) (6) she says they have no capability/advised (b) (6) 924 conversation was they had an en that could/would do it - she said they will keep searching for resources	
7 Sep 10	asked WCB/XO + (b) (6) to assist + AF FOIA	
9 Sep 10	emailed AF FOIA to assist per (b) (6) advice -	
13 Sep 10	Follow up to TX + AF FOIA; Anh (AF FOIA) said will consult DOD/requester wants paper records not other than wait for transcribe - emailed AF/15 for FOIA referral + sent imng to Ad Law for legal review Jenny	
14 Sep 10	Assigned to (b) (6) (JA-6915)	(b) (6)
22 Sep 10	To XO for review	Jenny
29 Sep 10	XO reviewed	Jenny
30 Sep 10	signed	
1 Oct 10	TX called - they have transcribed docs -	
2 Oct 10	rec'd call from (b) (6) they have transcription (b) (6)	
4 Oct 10	so (b) (6) will register on GKO so I can have her upload file	
6 Oct 10	file uploaded is not for this CPL - this is a call in on already given to requester	
18 Oct 10	ANUS LSO linked to CO to get names/dates of interests - list sent to TX	
14 Dec 10	transcriptions rec'd from TX - see online folder for email copies w/ requester	
15 Dec 10	redacted records - to Ad Law for legal review Jenny	
16 Dec 10	Assigned to (b) (6) (JA-7813)	(b) (6)
20 JAN 11	CaseAC Review enclosed	(b) (6)
20 Jan 11	To XO	Jenny
2 Feb 11	XO final	(b) (6)

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** NGB FOIA  
**Sent:** Thursday, February 03, 2011 9:08 AM  
**To:** 'Willits, Marty'  
**Subject:** RE: FOIA # 2011-00106 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good morning Mr. Willits,

Your request is currently in for review by the Initial Denial Authority through his Executive Officer. Once signed we'll get it mailed out, generally these take anywhere from a few days to a few weeks depending on the travel schedule of the Initial Denial Authority but it was provided to him last week.

v/r

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: Willits, Marty [mailto:(b) (6)]  
Sent: Thursday, January 27, 2011 4:44 PM  
To: NGB FOIA  
Subject: RE: FOIA # 2011-00106 (UNCLASSIFIED)  
Importance: High

Ms. Nikolaisen,

Please provide an update on the status of the MG Denhart CDI August 2006 transcript? Has the legal review been accomplished? Below you provided the legal review should be complete by the first of January and provided to me then. I have not yet received it. I look forward to receiving any clarifications and thank you.

Respectfully,  
Marty Willits  
(b) (6)

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From: NGB FOIA [FOIA@ng.army.mil]  
Sent: Monday, December 20, 2010 6:08 AM  
To: Willits, Marty D  
Subject: RE: FOIA # 2011-00106 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

We have received the transcription and I worked overtime last week to complete the review, the legal review should be complete by the first of January to provide this to you.

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: Willits, Marty D [mailto:(b) (6)]  
Sent: Friday, December 17, 2010 3:43 PM  
To: NGB FOIA  
Subject: RE: FOIA # 2011-00106 (UNCLASSIFIED)

Ms. Nikolaisen,

Please consider this request. Is it possible, due to the age of this FOIA request, that it be processed as soon as possible? I do understand the length of the file as I remember the investigation process well at the 147 RW. I appreciate your sharing the staffing situation.

Second, is it possible to be notified when your office receives the documentation from the Texas National Guard? Please note, (b) (6) no longer works for the governor's office.

Thank you again for the update.

Respectfully,  
Marty Willits  
(b) (6)

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From: NGB FOIA [FOIA@ng.army.mil]  
Sent: Tuesday, December 14, 2010 1:57 PM  
To: Willits, Marty D; NGB FOIA  
Cc: (b) (6)  
Subject: RE: FOIA # 2011-00106 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Mr. Willits,

We are still working on the transcription, I understand that it has been completed and has been mailed to our office. Once we receive it we'll begin reviewing the records to make a release determination as expeditiously as possible. I am not sure how many pages this entails and am also completely without staff at this time multiple actions ongoing so I am unable to speculate as to a response time as of yet.

v/r  
Jennifer

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: Willits, Marty [mailto:(b) (6)]  
Sent: Wednesday, November 24, 2010 11:14 AM  
To: NGB FOIA  
Cc: (b) (6)  
Subject: FW: FOIA # 2011-00106

Ms. Nikolaisen,

I was pleased with the eventual reception of this important document and the response by the SAF. Thank you for your attention in this matter.

I have yet to receive the 440 minutes of transcribed testimony from the Aug 2006 CDI initiated by MG Allen Dehnert. (b) (6) (with the Governor's office) has been working to address this open records request. The Texas Adjutant General's Department was sent a certified letter addressing the same.

Having received a copy of the 440 minutes of testimony via a CD from the TAG's Department, what is the position of your office and that of the NGB in order to receive a copy of this testimony under this FOIA request?

I respectfully request an update as I submit the details and experience of this open record request to the SAF, Texas Legislature, members of Congress and wish to provide as much information as possible. Please remember, it is due to my congressman, and according to his office that the House Armed Services Committee assisted me in receiving the Report of Investigation (8 pages) after years of waiting despite repeated requests.

I look forward to hearing from you. (b) (6) has been cc'd on this email in order to coordinate information and efforts regarding this important request more effectively. Thank you once again.

Respectfully,  
Marty Willits  
(b) (6)

---

From: (b) (6) USAF SAF/IGQ (b) (6) On  
Behalf Of SAF/IG FOIA [SAF.IGFOIA@pentagon.af.mil]  
Sent: Friday, November 19, 2010 1:49 PM  
To: Willits, Marty  
Cc: (b) (6) USAF SAF/IGQ  
Subject: FW: FOIA # 2011-00106

Please find attached SAF/IG's response to your FOIA referral from NGB FOIA Office.

Respectfully,

//signed//

(b) (6)

Chief, FOIA/PA Branch, Complaints Resolution Directorate  
SAF/IGQ  
1140 Air Force Pentagon  
Washington DC 20330-1140  
DSN 425-0524/Comm (703) 588-0524  
FAX DSN 426-2555/FAX Comm (703) 696-2555

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Classification: UNCLASSIFIED

Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Wednesday, December 15, 2010 11:43 AM  
**To:** (b) (6) NGTX  
**Subject:** RE: E-transcripts of the CD transcriptions (UNCLASSIFIED)  
**Signed By:** (b) (6)

Classification: UNCLASSIFIED  
Caveats: NONE

Oh okay.. :-) Hopefully it will arrive soon, we haven't received it as of yet but I will let you know when it arrives.

v/r  
Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

**From:** (b) (6) NGTX  
**Sent:** Wednesday, December 15, 2010 11:39 AM  
**To:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** RE: E-transcripts of the CD transcriptions (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

No, ma'am, you have to have court reporting software. That's why we sent you the hard copy with the disk.

-----Original Message-----

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Wednesday, December 15, 2010 10:38 AM  
**To:** (b) (6) NGTX  
**Subject:** RE: E-transcripts of the CD transcriptions (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Hi (b) (6) -

I tried to save them and then open them using .pdf as the e-mail indicated but can't seem to open them, are you able to open them in .pdf? If so, could you save them in .pdf and e-mail them to me in that format by chance?

Thanks -  
Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: (b) (6) NGTX  
Sent: Friday, December 03, 2010 3:37 PM  
To: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Cc: (b) (6) TXARNG  
Subject: FW: E-transcripts of the CD transcriptions (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: FOUO

Ms. Nikolaisen,

Attached are the transcripts of testimony requested for Willits. Please tell me if you are able to view them or not. There are two more that we will be receiving within the next few days.

Thank you.

(b) (6)

Office of the General Counsel, NCOIC  
Texas Army National Guard  
512-782-5407

-----Original Message-----

From: Production (Integrity Legal Support Solutions)  
[mailto:Production@integrity-texas.com]  
Sent: Friday, December 03, 2010 11:12 AM  
To: (b) (6) NGTX  
Subject: E-transcripts of the CD transcriptions

Attached are the Electronic versions of the CD transcriptions in .ptx format for your convenience. We will send the last two when we get them completed.

We will also be delivering all of the hard copies to you today. Do we need to be put on a list or will someone meet us at the front gate when we come by to deliver these transcripts? What is the best way for us to get these to you?

If you need anything else please just ask.

(b) (6)

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** NGB FOIA  
**Sent:** Tuesday, December 14, 2010 4:57 PM  
**To:** 'Willits, Marty'; NGB FOIA  
**Cc:** (b) (6)  
**Subject:** RE: FOIA # 2011-00106 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Mr. Willits,

We are still working on the transcription, I understand that it has been completed and has been mailed to our office. Once we receive it we'll begin reviewing the records to make a release determination as expeditiously as possible. I am not sure how many pages this entails and am also completely without staff at this time multiple actions ongoing so I am unable to speculate as to a response time as of yet.

v/r  
Jennifer

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

**From:** Willits, Marty [mailto:(b) (6)]  
**Sent:** Wednesday, November 24, 2010 11:14 AM  
**To:** NGB FOIA  
**Cc:** (b) (6)  
**Subject:** FW: FOIA # 2011-00106

Ms. Nikolaisen,

I was pleased with the eventual reception of this important document and the response by the SAF. Thank you for your attention in this matter.

I have yet to receive the 440 minutes of transcribed testimony from the Aug 2006 CDI initiated by MG Allen Dehnert. (b) (6) (with the Governor's office) has been working to address this open records request. The Texas Adjutant General's Department was sent a certified letter addressing the same.

Having received a copy of the 440 minutes of testimony via a CD from the TAG's Department, what is the position of your office and that of the NGB in order to receive a copy of this testimony under this FOIA request?

I respectfully request an update as I submit the details and experience of this open record request to the SAF, Texas Legislature, members of Congress and wish to provide as much information as possible. Please remember, it is due to my congressman, and according to his office that the House Armed Services Committee assisted me in receiving the Report of Investigation (8 pages) after years of waiting despite repeated requests.

I look forward to hearing from you. (b) (6) has been cc'd on this email in order to coordinate information and efforts regarding this important request more effectively. Thank you once again.

Respectfully,  
Marty Willits  
(b) (6)

From: (b) (6) USAF SAF/IGQ (b) (6) ] On Behalf Of SAF/IG  
FOIA [SAF.IGFOIA@pentagon.af.mil]  
Sent: Friday, November 19, 2010 1:49 PM  
To: Willits, Marty  
Cc: (b) (6) USAF SAF/IGQ  
Subject: FW: FOIA # 2011-00106

Please find attached SAF/IG's response to your FOIA referral from NBG FOIA Office.

Respectfully,

//signed//

(b) (6)  
Chief, FOIA/PA Branch, Complaints Resolution Directorate  
SAF/IGQ  
1140 Air Force Pentagon  
Washington DC 20330-1140  
DSN 425-0524/Comm (703) 588-0524  
FAX DSN 426-2555/FAX Comm (703) 696-2555

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Classification: UNCLASSIFIED  
Caveats: NONE

## Beharry, Ronnie T Mr CIV NG NGB ARNG

---

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Monday, October 18, 2010 9:19 AM  
**To:** (b) (6) TXARNG; (b) (6) NGTX  
**Subject:** Willits CDI FOIA Appeal #2010-00107-A (UNCLASSIFIED)  
**Attachments:** 2006 CDI Interviewee Listing.pdf; 2007 CDI Interviewee Listing.pdf

Classification: UNCLASSIFIED  
Caveats: NONE

Good morning -

We had the ANG LSO staff here this weekend so I asked them to listen to the CD and provide us a list of the names of people interviewed and dates of the interview to determine if these records go to the 2006 CDI he is requesting, or whether they are the audio files from the 2007 CDI (previously transcribed).

Based on the list they provided me, the audio does appear to be from the CDI he is requesting so the audio files unfortunately will still need to be either redacted with some form of audio equipment for release, or transcribed so they can be redacted using electronic software.

I have also attached the 2007 CDI Interviewee Listing for reference, as this is the one that Integrity Legal Support Services did the transcription on for each interviewee, which includes the transcription provided earlier this month on (b) (6) testimony.

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

Office of Chief Counsel (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Ste 11300  
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<https://gkoportal.ngb.army.mil/sites/NGB-SpecialStaff/JA/privacy/default.aspx>

Classification: UNCLASSIFIED  
Caveats: NONE

CD1 Testimonies on (b) (6)

**Interviewee**

(b) (6)

**Interviewer**

(b) (6)

**Dates**

29 Aug 2006

30 Aug 2006

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**Table of Contents:**

**Tab A:** Appointment and Tasking Letters

**Tab B:** Authority and Scope

**Tab C:** Background

**Tab D:** Findings, Analysis and Conclusion

**Tab E:** Recommendations

**Tab F:** Testimony (Separate Binder)

Index of Witnesses

F (1)

F (1a)

F (1b)

F (2)

F (2a)

F (2b)

F (2c)

F (3)

F (3a)

F (3b)

F (3c)

F (3d)

F (3e)

F (4)

F (4a)

F (4b)

F (4c)

F (4d)

F (4e)

F (4f)

F (5)

F (5a)

F (6)

F (6a)

(b) (6)

(b) (6)

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Page 1 of 2

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**Table of Contents:**

F (7) (b) (6)  
F (8) (b) (6)  
F (9) (b) (6)  
F (10) (b) (6)  
F (11) (b) (6)  
F (11a) (b) (6)  
F(11b) (b) (6)  
F (11c) (b) (6)  
F (11d) (b) (6)  
F (11e) (b) (6)  
F (11f) (b) (6)  
F (11g) (b) (6)

**Tab G:** Evidence (Separate Binder)

Index of Exhibits is attached to Tab G

**Tab H:** Technical Reviews (Not Applicable)

**Tab I:** Legal Review

**Tab J:** Appointing Authority Approval and Actions

**Tab K:** Administrative Documents

- (1) Orders; BG Haynes/Orders; (b) (6)
- (2) Privacy Act Statements and Signatures
- (3) Advisement of Rights and Signatures
- (4) CDI Notes/Journal
- (5) CDI Consolidated Contact List
- (6) Memo for Record; (b) (6)
- (7) Email; subject: Legal Advisor/Reviewer Approval Request
- (8) CDI Interviews
- (9) Tab F Matrix
- (10) Email; Subject: Tab D (b) (6) Request
- (11) Email; Subject: Email for Gen Haynes and Comment by TAG TX
- (12) Memo for Record; (b) (6) Legal Advisor and Reviewer Memos
- (13) Email; Subject: Re: Tab D, (b) (6) Request
- (14) Email; Subject: CDI Extension
- (15) Email; Subject: Message for General Haynes
- (16) MEO and Congressional Case Background on Complainants

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Page 2 of 2

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** NGB FOIA  
**Sent:** Monday, October 04, 2010 10:32 AM  
**To:** HAF FOIA workflow  
**Subject:** FOIA referral our case #2010-00107-A (UNCLASSIFIED)  
**Attachments:** 2010-00107-A.pdf; Notification of FOIA Referral #2010-00107-A (UNCLASSIFIED); AF IG Referral Documents.pdf

Classification: UNCLASSIFIED

Caveats: NONE

Good morning -

The attached documents are being referred to your office as IG records (referral accepted by (b) (6) below); we still have this case open pending additional records so we are unable to transfer it in e-FOIA.

The requestor has been notified of the referral (Attached).

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

**From:** (b) (6) USAF SAF/IGQ [mailto:(b) (6)]  
**Sent:** Tuesday, September 14, 2010 11:16 AM  
**To:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** RE: AF IG Referral our case #2010-00107-A (UNCLASSIFIED)

Hi Jenny,

I reviewed the attached five pages and they did originate from the Inspector General files.

Please refer the aforementioned pages to SAF/IG via HAF/IMII(FOIA) office.

V/r

(b) (6)

//signed//

(b) (6)

Chief, FOIA/PA Branch, Complaints Resolution Directorate  
SAF/IGQ  
DSN 425-0524/Comm (703) 588-0524  
FAX DSN 426-2555/FAX Comm (703) 696-2555

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message."

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG

(b) (6)

Sent: Monday, September 13, 2010 3:15 PM

To: (b) (6) USAF SAF/IGQ

Subject: AF IG Referral our case #2010-00107-A (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Good afternoon (b) (6) -

I have the attached 5 pages that were incorporated into a CDI which I believe are IG records needing referral to your office, could you confirm if these are IG records we need to refer or whether we have authority to release? Thanks -

Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

Office of Chief Counsel (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Ste 11300  
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<https://gkoportal.ngb.army.mil/sites/NGB-SpecialStaff/JA/privacy/default.asp>

x

Attachment Classification: UNCLASSIFIED  
Attachment Caveats: FOUO//PROTECTED BY PRIVACY ACT

Classification: UNCLASSIFIED  
Caveats: NONE

Attachment Classification: UNCLASSIFIED  
Attachment Caveats: FOUO//PROTECTED BY PRIVACY ACT

Classification: UNCLASSIFIED  
Caveats: NONE

## Nikolaisen, Jennifer A Ms CIV NG NGB ARNG

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**From:** NGB FOIA  
**Sent:** Monday, October 04, 2010 10:28 AM  
**To:** 'Willits, Marty'  
**Subject:** Notification of FOIA Referral #2010-00107-A (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Dear Mr. Willits,

While reviewing records located by the Texas Air National Guard that were responsive to your FOIA Appeal (#2010-00107-A), there were 5 pages that originated from the Inspector General office. As such, we have referred those pages to the Air Force Inspector General for review and direct response to you.

Their FOIA Office contact information is as follows:

HAF/IMII  
1000 Air Force Pentagon  
Washington, DC 20330-1000  
Fax (703) 693-5728

We mailed an interim response to you on Friday for this request which indicates within the pages provided that these pages were referred in mid-September; however, we neglected to process the referral action until today. We are still awaiting transcription of the testimony which we hope to receive by the end of this month.

If you have any questions on this matter, please contact my office at [FOIA@ng.army.mil](mailto:FOIA@ng.army.mil).

// SIGNED //

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195

Office of Chief Counsel (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Ste 11300  
Arlington VA 22202-3231

Classification: UNCLASSIFIED  
Caveats: NONE

FOIA/PA Request

Case No: 2010-00107A

Date Rcvd: 12 Apr 10

Date Due: 10 May 10

Rcvd By: NGB/JA-OIP JTD  
AUG

Office of Information and Privacy (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Suite 11300  
Arlington, VA 22202-3231

C/O (b) (6) JS Army Chief Counsel/NGB  
& Ms. Jennifer Nikolaisen, NGB FOIA Officer

RE: FOIA request # 2009-04170-F (FOIA Appeal)

9 April 2010

(b) (6) and Ms. Nikolaisen,

Since you communicated directly to Congressman Ted Poe, protocol required further requests regarding National Guard Bureau's (NGB) release of (b) (6) Commander Directed Investigation (CDI) as directed by MG Allen Dehnert Aug 06 would have come from his staff. We have received correspondence from Congressman Poe stating any further requests regarding this issue would need to come directly from myself.

In order to accomplish this please accept this correspondence as my formal appeal and request for the following information. Since Aug 06, numerous requests have been made to Texas Air National Guard (TXANG) and NGB for a complete copy of (b) (6) CDI. After nearly three years of requests, both verbal and written, the NGB releases (b) (6) Report of Investigation (ROI) to Congressman Ted Poe only, and not the entire CDI as was requested.

Please accept this as another FOIA request for the following:

- MG Dehnert's letter (4 Aug 06) detailing (b) (6) as IO. This is requested in order to determine the areas Col Allen was to investigate.
- Transcripts of Witnesses, Complainant and Subject. These documents are requested in order to determine areas investigated, questions asked, and answers provided by Col Horn (subject of complaint), six witnesses, and myself. (b) (6) taped all interviews.
- Legal Review of (b) (6) findings.
- Exhibits provided by all individuals questioned.
- Any other existing portions of CDI, minus the eight pages provided to Congressman Poe.

Should your staff be unable to release the above mentioned documents, due to inability to locate or lack of existence, please provide in writing with as much specificity to each area requested. Should these documents exist, yet NGB declines to release them, I request this too be put in writing.

I am aware, after viewing other TXANG CDI FOIA requests, that the above documents are included in a release of a complete CDI and not just the ROI alone; as was in my case.

The purpose of this correspondence is not just a data request, but an ongoing effort to gather supporting documentation to correct errors and injustices. Should there be any questions, you may reach me at the address below or via email at (b) (6) I look forward to receiving your response.

Very Respectfully,

(b) (6)

Marty Willits

(b) (6)

**Nikolaisen, Jennifer A Ms CIV NG NGB ARNG**

---

**From:** (b) (6)  
**Sent:** Monday, April 12, 2010 9:48 AM  
**To:** NGB FOIA  
**Subject:** Letter to FOIA Dept - Army 9 Apr 10.pdf - Adobe Acrobat Professional FOIA #2009-04170-F  
**Attachments:** Letter to FOIA Dept - Army 9 Apr 10.pdf

Ms. Nikolaisen,

Per your conversation with my husband this morning, attached is his appeal/request for further documentation in regards to the Commander Directed Investigation (CDI) initiated by MG Allen Dehnert (TXANG) August 2006, conducted and completed by (b) (6) 1 November 2006.

This is a time sensitive request. We would appreciate the documents requested be provided no later than 1 May 2010. As you are aware, this request is in excess of 80 months.

Should you have any questions, please use the contact information on the letter. Thank you for your time and we look forward to hearing from you.

Sincerely,

Mrs. Marty Willits

FOIA Request # 2009-04170-F



**NATIONAL GUARD BUREAU**  
1411 JEFFERSON DAVIS HIGHWAY  
ARLINGTON VA 22202-3231

January 26, 2010

Office of the Chief Counsel

The Honorable Congressman Ted Poe  
United States House of Representatives  
Humble District Office  
20202 U.S. Highway 59 North  
Suite 105  
Humble, Texas 77338

Dear Congressman Poe:

This letter is in response to your Freedom of Information Act (FOIA) request dated November 6, 2008 for records on the Commander Directed Investigation conducted in 2007 in regards to an equal opportunity/inspector general complaint submitted by your constituent, Mr. Marty Willits (FOIA #2009-04170-F).

This office has finalized your request and the records you have requested are being granted in part at no cost. A search by the Air Force Inspector General's Office in October, 2009 revealed an 8 page record responsive to this request which was forwarded to the Texas Air National Guard and our office for review and release. After a thorough review of this record, I have determined that portions of them are exempt from disclosure under the FOIA, 5 U.S.C. § 552 (b)(6). We are releasing a total of 8 pages, 6 pages are being released in part and 2 pages are being released in their entirety.

Exemption (b)(6) protects personnel, medical, and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Under this exemption, we are withholding names of Department of Defense personnel below the title of Commander/Director.

If you are not satisfied with this action, you may appeal to the appellate authority, the Secretary of the Air Force within 60 days from the date of this letter. Your appeal should include copies of your original request and this response, as well as a discussion of the reasons supporting your appeal. The envelope should be plainly marked to indicate that it contains a Freedom of Information Act appeal. If you decide to appeal, please send your appeal to:

Office of Information and Privacy (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Suite 11300  
Arlington, Virginia 22202-3231

If you have any questions regarding this request, please contact Ms. Jennifer Nikolaisen, NGB FOIA Officer, at (703) 607-3195.

Sincerely,

(b) (6)

Lieutenant Colonel, US Army  
Chief Counsel  
National Guard Bureau

Enclosure

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** NGB FOIA  
**Sent:** Monday, October 04, 2010 10:28 AM  
**To:** 'Willits, Marty'  
**Subject:** Notification of FOIA Referral #2010-00107-A (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Dear Mr. Willits,

While reviewing records located by the Texas Air National Guard that were responsive to your FOIA Appeal (#2010-00107-A), there were 5 pages that originated from the Inspector General office. As such, we have referred those pages to the Air Force Inspector General for review and direct response to you.

Their FOIA Office contact information is as follows:

HAF/IMII  
1000 Air Force Pentagon  
Washington, DC 20330-1000  
Fax (703) 693-5728

We mailed an interim response to you on Friday for this request which indicates within the pages provided that these pages were referred in mid-September; however, we neglected to process the referral action until today. We are still awaiting transcription of the testimony which we hope to receive by the end of this month.

If you have any questions on this matter, please contact my office at [FOIA@ng.army.mil](mailto:FOIA@ng.army.mil).

// SIGNED //

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195

Office of Chief Counsel (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Ste 11300  
Arlington VA 22202-3231

Classification: UNCLASSIFIED  
Caveats: NONE

## **Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Tuesday, September 07, 2010 11:40 AM  
**To:** Trinh, Bao-Anh CIV USAF SAF/A6PP  
**Subject:** Transcription of Audio Files for #2010-00107-A (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Hi Anh -

We have a request that is at the top of our queue that is audio files (400 minutes), that we cannot release in their entirety due to the mention of names of third parties, social security numbers, and possibly other information that would invade the privacy of others. We have been unable to locate anyone to do a transcription to paper of these records, or software to redact. Do you have any recommendations for us? This is a FOIA appeal we've had since 12 Apr 10 and is requested by Mr. Marty Willits.

You may recall we (b)(5), (b)(6) and it resulted in some records being found by AF/IG and then transferred to the TX/IG for us to respond to a FOIA request. He has now appealed the adequacy of that search which resulted in the TX Air TAG office finding the audio files that were used in the CDI. (b) (5), which were never transcribed, the only thing we have are chicken scratch notes from the investigating officer including statements that say things like "full audio file recording is available."

Any assistance or advice on how we could proceed to get this closed out would be greatly appreciated. Thanks!

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

Office of Chief Counsel (NGB/JA-OIP)  
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Classification: UNCLASSIFIED

Caveats: NONE

## Beharry, Ronnie T Mr CIV NG NGB ARNG

---

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Tuesday, September 07, 2010 11:23 AM  
**To:** (b) (6) MIL NG NGB ARNG  
**Subject:** 2010-00107-A Transcription (UNCLASSIFIED)  
**Attachments:** RE: Court reporter/transcription; FW: Transcription of Witness Statements for FOIA (UNCLASSIFIED); FW: Transcriber

Classification: UNCLASSIFIED

Caveats: NONE

As we discussed, (b) (6) contacted (b) (6) and (b) (6), and (b) (6) has contacted (b) (6) (Bolling & Andrews JA Offices) in attempts to find someone to transcribe approx 400 minutes of audio to allow for redacting a FOIA request to no avail.

This is a FOIA request for records that originated from TX ANG and in order for them to make release recommendations they would need to transcribe the records and provide them to us, but they haven't been successful in locating anyone to do the transcription either. (b) (5)

(b) (5) and it is at position #5 in our queue so any assistance in locating somewhere we could have these transcribed, or alternatively, software for someone to redact out all mentions of names and social security numbers, or other personal information, would be great.

Thanks!

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

Office of Chief Counsel (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Ste 11300  
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<https://gkoportal.ngb.army.mil/sites/NGB-SpecialStaff/JA/privacy/default.aspx>

Classification: UNCLASSIFIED

Caveats: NONE

## Beharry, Ronnie T Mr CIV NG NGB ARNG

---

**From:** NGB FOIA  
**Sent:** Tuesday, September 07, 2010 8:27 AM  
**To:** 'Willits, Marty'  
**Subject:** RE: FOIA # 2010-00107-A (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

At this time, I am unable to give an estimated completion date of this request as we have been unable to successfully locate any office that is able to perform transcription of an estimated 400 minutes of testimony. We are still trying to locate a legal office that has a court reporter that is available to, as a courtesy, perform transcription, rather than do a full denial to you of the testimony. If you want to modify your request so that you are not requesting the recorded transcripts then we can send what we have in for a legal review and have a release within 2-3 weeks; otherwise, my office is at the mercy of awaiting responses from several other legal offices in the DC area that we have asked for assistance from and continuing to seek a way to get the information transcribed.

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: Willits, Marty [mailto:(b) (6)]  
Sent: Monday, September 06, 2010 1:21 PM  
To: NGB FOIA  
Subject: FOIA # 2010-00107-A (MG Allen Dehnert CDI - August 2006)  
Importance: High

September 6, 2010 Update Request  
Ms. Nikolaisen,

The below updates have been provided from your office regarding FOIA# 2010-00107-A:

- August 16, 2010 - Awaiting input from TAG's Department
- July 13, 2010 - Paper documents located by the TX JFHQ ATAG Office were sent to NGB on or before July 13th.
  - o Per the Texas Judge Advocate office, witness testimony (audio recordings) to be transcribed and an update to be provided to NGB.
- June 22, 2010 - NGB/FOIA confirms 80 pages discovered by TAG's office relating to the above FOIA request (MG Allen Dehnert CDI - August 2006).
- June 10, 2010 - TAG/IG directs NGB/FOIA to contact TAG's Chief for new record search / certification. Anticipated completion date July 30, 2010.
- April 15, 2010 - NGB/FOIA confirms receipt of my FOIA request.

The following is provided to assist in processing this request:

- January 26, 2010 - NGB Chief Legal Counsel provides existence IO's Report of Investigation (November 1, 2006)
- December 20, 2008 - Request made directly to (b) (6), Texas Army National Guard, J5 Policy/FOIA Branch (FOIA Case No. 08-10).
- March 14, 2008 - Request made directly to the Adjutant General, Texas Military Forces, Austin.
- November 8, 2006 - Request made directly to (b) (6) counsel to MG Dehnert.

Please provide an update regarding the following:

1. The review of the 80 pages discovered by the TX TAG and per the above release to NGB; anticipated date they will be released to me? Is the release of the transcribed testimony holding up the release of these 80 pages? If not, please release them.
2. The transcribed witness testimony and anticipated completion date/release to me?

Respectfully,  
Marty Willits

(b) (6)

---

From: NGB FOIA [FOIA@ng.army.mil]  
Sent: Tuesday, August 17, 2010 6:56 AM  
To: Willits, Marty; NGB FOIA  
Subject: RE: FOIA Request Update 8-14-2010 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good morning Mr. Willits,

I do not have any additional information to provide you with respect to your requests aside from the information I provided to you yesterday.

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: Willits, Marty [mailto:(b) (6)]  
Sent: Monday, August 16, 2010 4:30 PM  
To: NGB FOIA  
Subject: RE: FOIA Request Update 8-14-2010 (UNCLASSIFIED)

Ms. Nikolaisen,

Are you allowed to provide only the agency name such as the Texas Adjutant General's Department or National Guard Bureau that your office is waiting input or action on relating to the below requests:

1. #2010-00107-A
2. #2010-04177-F

Thank you for your continued responsiveness.

Sincerely,  
Marty Willits

(b) (6)

---

From: NGB FOIA [FOIA@ng.army.mil]  
Sent: Monday, August 16, 2010 9:33 AM  
To: Willits, Marty; NGB FOIA  
Subject: RE: FOIA Request Update 8-14-2010 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Mr. Willits,

I am unable to identify to you each individual offices that I am awaiting action on. The response timelines and communications from internal offices is an internal agency matter that we do not release details of.

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: Willits, Marty [mailto:(b) (6)]  
Sent: Monday, August 16, 2010 10:23 AM  
To: NGB FOIA  
Subject: RE: FOIA Request Update 8-14-2010 (UNCLASSIFIED)  
Importance: High

Ms. Nikolaisen,

Thank you and know I am appreciative of your work. Please identify the "outside offices" whether they be within the NGB or here in Texas. I assume these offices are here in Texas. I respectfully request this as I am updating the Governor on his unit's responsiveness. His staff in turn informs me as to their efforts relating to the TXANG.

Respectfully,  
Marty Willits  
(b) (6)

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From: NGB FOIA [FOIA@ng.army.mil]  
Sent: Monday, August 16, 2010 5:18 AM  
To: Willits, Marty  
Subject: RE: FOIA Request Update 8-14-2010 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Mr. Willits,

In response to your request for status updates, I have no new updates beyond the status updates you already have below; however, I can provide you with an update as to where your request are in our queue for processing which are as follows:

#2010-00107-A, #7, Estimated Completion Date Unknown (was June 15, 2010);  
awaiting input from outside offices

#2010-04177-F, #9, Estimated Completion Date Unknown (was July 31, 2010);  
awaiting input from outside offices

#2010-05668-F, #25, Estimated Completion Date August 31, 2010

#2010-06465-F, #45, Estimated Completion Date: September 30, 2010

I regret that I have not received further updates but am continuing to work

your requests as expeditiously as possible.

// SIGNED //

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: Willits, Marty [mailto:(b) (6)]  
Sent: Saturday, August 14, 2010 1:45 PM  
To: NGB FOIA  
Subject: FOIA Request Update 8-14-2010  
Importance: High

Office of Information and Privacy (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Suite 11300  
Arlington, VA 22202-3231  
Ms. Jennifer Nikolaisen, NGB FOIA Officer

RE: FOIA update status  
August 14, 2010

Ms. Nikolaisen,

Please provide an update for the following:

I. FOIA # 2010-00107-A: MG Dehnert 2006 CDI / Col Allen IO:

- \* FOIA NGB Submittal date: April 9, 2010
- \* Initial request submitted February 22, 2010 for release of these documents was made to Congressman Poe as (b) (6) addressed the congressman's inquiry. At Congressman Poe's direction, direct contact was made to NGB/FOIA.
- \* NGB confirms receipt: April 15, 2010
- \* June 10, 2010 - TX/IG directs NGB/FOIA to contact TAG's Chief of Staff for new record search/certification. Position #36 in queue. Anticipated completion date: July 30, 2010.
- \* Last update - July 13, 2010

Confirmation documents relating to MG Dehnert CDI were located in TX JFHQ ATAG Office. Documents have been sent to NGB/FOIA.

Audio testimony exists and is to be transcribed and released from TX-JAG.

Anticipated completion date: As of July 12th, unknown. NGB/FOIA "awaiting an estimated completion date from TX-JAG office."

Request:

- \* Release of documentation received by NGB/FOIA from TX JFHQ ATAG Office on or about July 13, 2010. 80 pages NGB/FOIA Office had prior to the release of any transcribed testimony you spoke of.
- \* Update of the TX JAG's progression in transcribing witness testimony and anticipated completion date
- \* Based on TX JAG's anticipated completion date of transcribed testimony and release to NGB/FOIA, provide anticipated completion date for NGB/FOIA to release transcribed testimony.

II. FOIA # 2010-04117-F: 11 Item Request

Submittal date: April 15, 2010

NGB confirms receipt: April 27, 2010

TAG comments: During week of May 12, 2010 - Unit confirmed to NGB/FOIA a CD of documents was overnighted.

June 10, 2010 - TX HQ intercepted CD documents and advised all FOIAs had to be processed through them for record review and release determination, as well as possible continued search with their update to NGB/FOIA to occur on or about June 11, 2010.

Last update - July 13, 2010

ANG/A1 Office is added to document search request and anticipate a response by August 15, 2010. NGB FOIA is awaiting update from ANG/A1; they were performing an additional records response.

Request:

1. Release documentation received from TX HQ and should ANG/A1 turn up further documentation, release that documentation at that time.

III. FOIA # 2010-5668-F: 22 Item Request

Submittal date: June 27, 2010

Originally submitted to TAG FOIA on May 28, 2010 as TPIA.

NGB confirms receipt: Jun 30, 2010

Anticipation completion date: August 31, 2010

Request:

1. Status on document release date.

The following is an update for your records.

In regards to the FOIA # 2010-5332-F (36 page report), on August 4, 2010, I received the following from NGB Office of the Chief Counsel: ANG Installations and Mission Support Division "search did not reveal the specifically referenced 36 pg. document requested." They did release 2 documents, consisting of 5 pgs.

The (b) (6) documents as managed by the TX (b) (6). After repeated requests, I have yet to hear of a definitive response or anticipated completion date for release of documents requested. (b) (6) advised me she will consult with CW2 Brite, the TAG FOIA point of contact.

The (b) (6) documents as managed by the (b) (6) office were received August 13, 2010.

Thank you for your assistance in documents received thus far. As you will note from correspondence and results received thus far, the NGB response has differed from that of the Texas National Guard. Please continue your oversight and management of the outstanding FOIAs.

I look forward to your response.

Respectfully,

Marty Willits

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** (b) (6) USAF ANG NGB/JA (b) (6)  
**Sent:** Monday, August 30, 2010 3:32 PM  
**To:** (b) (6) USAF 316 WG/JA; (b) (6) USAF AFDW 11 WG/JA  
**Cc:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** FW: Transcription of Witness Statements for FOIA (UNCLASSIFIED)

(b) (6),

Per below, Ms Nikolaisen, NGB FOIA/Privacy Officer, is seeking transcription support on a FOIA response. Please let her know if your office can assist. Thanks.

(b) (6)

Counsel to ANGRC  
301-836-8614/278-8614

-----Original Message-----

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG [mailto:(b) (6)]  
**Sent:** Thursday, August 26, 2010 3:37 PM  
**To:** (b) (6) USAF ANG NGB/JA  
**Subject:** Transcription of Witness Statements for FOIA (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good afternoon (b) (6) -

We have a FOIA request that includes audio files of witness statements from TX that we are looking to get transcribed. We had initially asked TX if they could transcribe them but they have found they have no capability to transcribe from a CD and I understand you have several contacts at Bolling and Andrews legal offices and wondered if you might be able to contact them to see if they would have the capability (and willingness) to help us out.

We have a total of about 400 minutes worth of recordings that we'd need to get transcribed. Any advice or recommendations on how we could go about this would be greatly appreciated.

Thanks in advance -  
Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

Office of Chief Counsel (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Ste 11300  
Arlington VA 22202-3231

Visit our "One-Stop Information Shop" sites on GKO for helpful information:  
<https://gkoportal.ngb.army.mil/sites/NGB-SpecialStaff/JA/foia/default.aspx>  
<https://gkoportal.ngb.army.mil/sites/NGB-SpecialStaff/JA/privacy/default.aspx>

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** (b) (6) MAJ MIL NG NGB ARNG  
**Sent:** Thursday, August 26, 2010 11:40 AM  
**To:** (b) (6) NGDC  
**Cc:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** RE: Court reporter/transcription

Okay thank you.

-----Original Message-----

**From:** (b) (6) NGDC  
**Sent:** Thursday, August 26, 2010 11:34 AM  
**To:** (b) (6) NG NGB ARNG  
**Subject:** Re: Court reporter/transcription

You are mistaken.  
For Government Use Only

----- Original Message -----

**From:** (b) (6) NG NGB ARNG  
**To:** (b) (6) NGDC  
**Cc:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Thu Aug 26 11:35:26 2010  
**Subject:** Court reporter/transcription

Sir - I heard that you may have a paralegal that is also a court reporter or that does transcription. We have a small FOIA project that requires transcription that we need help with. Can we borrow her or put her on orders- I believe her name is (b) (6)?

(b) (6)  
Operational Law, NGB  
Office of the Chief Counsel  
703-607-2706 DSN 327  
Fax 703-607-3682

(b) (6)

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** (b) (6) NG NGB ARNG  
**Sent:** Thursday, August 26, 2010 11:09 AM  
**To:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** FW: Transcriber

-----Original Message-----

**From:** (b) (6) ) [mailto:(b) (6)]  
**Sent:** Thursday, August 26, 2010 10:58 AM  
**To:** (b) (6) NG NGB ARNG  
**Subject:** RE: Transcriber

No, I'm sorry we don't.

-----Original Message-----

**From:** (b) (6) NG NGB ARNG (b) (6)  
**Sent:** Thursday, August 26, 2010 10:57 AM  
**To:** (b) (6)  
**Subject:** Transcriber

Do you have a transcriber on your team - we need one for our FOIA section.

(b) (6)  
Operational Law, NGB  
Office of the Chief Counsel  
703-607-2706 DSN 327  
Fax 703-607-3682  
(b) (6)

## Beharry, Ronnie T Mr CIV NG NGB ARNG

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**From:** NGB FOIA  
**Sent:** Tuesday, July 13, 2010 11:08 AM  
**To:** 'Willits, Marty'  
**Subject:** RE: Update 12 Jul 2010 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Mr. Willits,

The paper documents located by the TX JFHQ ATAG Office for request #2010-00107-A have been sent to our office but we were also informed there is audio records of the witness testimonies. As we do not have capability to redact audio recordings we have, as a courtesy, asked for those records to be transcribed in order to make a release determination. I am awaiting an estimated completion date from the Texas Judge Advocate office on their availability of a court reporter to perform this transcription and can give a more accurate completion date once they are transcribed and we have an idea of the volume of records that require review.

I would anticipate a response by August 15, 2010 for request FOIA #2010-04177-F. We are awaiting additional records searches by the ANG/A1 directorate to ensure a thorough search before issuing any no records responses; however, I will be out of the office until the end of the month and they have advised they need another week to search for records.

For the EO office, they should have contacted you directly but you may also get in touch with them for your records. Privacy Act requests do not generally receive tracking numbers (though their office may provide numbers for requests they get) and the Privacy Act does not provide a specific timeframe for response to requests; however, the Department of Defense and Air Force recommend responses not take more than 30 days.

Jennifer Nikolaisen, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: Willits, Marty [mailto:(b) (6)]  
Sent: Monday, July 12, 2010 8:01 AM  
To: NGB FOIA  
Subject: Update 12 Jul 2010

Ms. Nikolaisen,

Please provide an update for the following requests:

1. FOIA 2010-00107-A ((b) (6) CDI). Is the release date still set for approximately 30 Jul 2010? What agency or department discovered the 80 page document and released them to you for processing?
2. FOIA 2010-04177-F. Is the release date still set for approximately 30 Jul 2010?
3. On 17 Jun, you stated NGB EO would contact me directly regarding the documents requested as a FOIA as they are covered under the Privacy Act. I have not heard from them yet. Am I to contact them directly or to work through your office for an update for this specific

request? Will I be provided a separate tracking number for this Privacy Act request? Please provide clarification.

Thank you for your assistance.

Sincerely,  
Marty Willits

(b) (6)

Classification: UNCLASSIFIED

Caveats: NONE

**Nikolaisen, Jennifer A Ms CIV NG NGB ARNG**

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**From:** NGB FOIA  
**Sent:** Monday, June 21, 2010 10:59 AM  
**To:** 'Willits, Marty'  
**Subject:** RE: FOIA 2010-00107-A (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Mr. Willits,

With regards to your questions on your FOIA inquiry #2010-00107-A below, the records you are seeking are Federal records, specifically they are records belonging to the Air National Guard, so they are being processed under the FOIA rather than the Texas Public Information Act.

In addition, the Air National Guard FOIA program was centralized over a year ago so my office is the only office designated to receive FOIA requests. Requests sent elsewhere will not be considered "received by the agency" until they are received by my office.

With regards to your third request regarding the 15-6 investigations, Texas provided you with an initial response that they had no record of the MG Dehnert investigation and sent only your request for the investigation by MG Rodriguez to our office sometime in 2008. As we explained in our FOIA response, the only existing copy of the investigation by MG Dehnert was in the Air Force Inspector General (IG) office, as they are required to receive a courtesy copy of all investigations that are completed. The records you received in your initial request (#2009-04170-F) were a result of obtaining a copy of the record set they had on file to provide to you.

We are in the process of conducting a secondary search for records from the Texas Adjutant General's department to see if they are able to locate the additional portions of the investigation.

Jennifer Nikolaisen, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: Willits, Marty [mailto:(b) (6)]  
Sent: Sunday, June 20, 2010 4:18 PM  
To: NGB FOIA  
Cc: TX Freedom of Information Act  
Subject: FOIA # 2010-05332-F and FOIA 2010-00107-A  
Importance: High

20 Jun 2010

Ms. Nikolaisen,

Thank you for your responses regarding my FOIA requests.

1. FOIA 2010-00107-A:

The attached two letters will assist you in locating the documents requested under the above FOIA case number. The letter attached dated 8 Dec 08 states you are providing part 2 of a FOIA case number "#08-072" to my attorney, (b) (6), requested on 14 Mar 08. By locating case number 08-072 the documents requested under part 1 will assist you in supplying this FOIA submitted in 2010, over 2 years after my initial request.

Please note in the attachment dated 14 Mar 08 it was my understanding that the IO's investigation had been completed in Feb 07 per MG Dehnert's one paragraph letter that his investigation was completed. It was not until receiving (b) (6) letter with (b) (6) ROI attached that I learned the investigation had been concluded 1 Nov 06 while I was still on active duty.

Per CWO Brite's letter, 14 Jun 10, she sites Air National Guard FOIA Policy (30 Mar 09) as the basis for this request being processed by NGB/JA-FOIA. As all requests for documents regarding MG Dehnert's Aug 06 CDI (IO (b) (6)) were made prior to 15 Mar 08, why is this an FOIA request instead of it being processed as a Texas Public Information Act (TPIA) request?

Please contact CWO Brite to determine the results and the office of responsibility for the 2008 open records request that is now FOIA 2010-00107-A. Additionally, why were the documents requested under part 1 (MG Dehnert CDI-06) not processed and released simultaneously with the documents in part 2 (MG Rodriguez CDI-07)?

The 147th RW/CC phone number is 281-929-2222. The TXANG HQ phone number is 512-782-5193.

Please let me know if you have any questions. I look forward to your response.

Respectfully,  
Marty Willits  
(b) (6)

CC: CWO Brite

Classification: UNCLASSIFIED  
Caveats: NONE

## Beharry, Ronnie T Mr CIV NG NGB ARNG

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**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Wednesday, June 16, 2010 2:27 PM  
**To:** (b) (6) (TXANG)  
**Cc:** (b) (6) (TXANG)  
**Subject:** FOIA Record Search Appeal #2010-00107-A - Suspense: 23 Jun 10 (UNCLASSIFIED)  
**Attachments:** 2009-04170-F Release.pdf; Sample No Records Certification.doc

Classification: UNCLASSIFIED  
Caveats: FOUO

Sir,

We have received a FOIA appeal from Mr. Marty Willits (FOIA #2010-00107-A) appealing the adequacy of an initial search for records of a CDI initiated by MG Dehnert in August 2006. A previous search by the TX ANG yielded no responsive records; however, we were able to track down a copy of some records from the AF/IG that had been provided to them by the TX/IG at some point in 2006. Those records were provided to (b) (6) and he subsequently sent them to my office for release to the requestor (that final response is attached).

Mr. Willits is appealing the adequacy of the search, indicating that the entire CDI was not provided to him. Specifically he indicates the following additional documents are missing and he would like an additional search conducted for these records:

- 1) MG Dehnert's letter of 4 Aug 06 detailing (b) (6) as the IO
- 2) Transcripts of Witnesses, Complainant, and Subject
- 3) Legal Review of (b) (6) findings
- 4) Exhibits provided by all individuals questioned
- 5) All other existing portions of the CDI, minus the eight pages provided to Congressman Poe

I spoke with (b) (6) who referred me to you (below) to have a search conducted of the ATAG files for responsive records. Please have the Office of the ATAG (formerly Maj Gen Dehner's office) conduct a search for any and all records of a "Commander Directed Investigation into allegations that Col Horn abused his authority for (b) (6)" to include a search for the records listed above.

I believe the investigating officer was likely appointed around Aug-Oct 2006 (based on the records provided previously). If additional records are found, please forward those to my office, or if no records are found in the search, please have the attached "no records certification" completed and returned to my office so we may forward to the Sec/AF Appeals Office.

Thanks in advance for your assistance on this matter -

Jenny

Jennifer Nikolaisen, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer

(703) 607-3195, DSN 327-3195

-----Original Message-----

From: (b) (6) (TXANG)  
Sent: Wednesday, May 26, 2010 3:40 PM  
To: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Cc: (b) (6) (TXANG)  
Subject: FOIA Record Search Appeal #2010-00107-A (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: FOUO

Jennifer,

Command may be able to assist your office to ensure a complete search is performed for the CDI and associated documents being requested from your office. Therefore, please address the FOIA request to (b) (6), TXANG Director of Staff. DSN: 954-5487

I am courtesy copying him on this e-mail to give him situational awareness of this forthcoming request.

Recommend you call him next week since he is TDY and will not be able to direct a record search until he gets back into town.

V/r

(b) (6) TXANG  
Acting State Inspector General  
Texas Joint Force Headquarters  
Comm: 512-782-5201  
DSN: 954-5201  
Gov Cell (b) (6)  
(b) (6)

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Classification: UNCLASSIFIED  
Caveats: FOUO

Classification: UNCLASSIFIED  
Caveats: FOUO

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** NGB FOIA  
**Sent:** Thursday, June 10, 2010 8:59 AM  
**To:** 'Willits, Marty'  
**Subject:** RE: Update request for FOIA Appeal #2010-00107-A & FOIA # 2010-04177-F (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Sir,

Your first request (2010-00107-A) we are still awaiting records, the TX/IG indicated that we need to contact the Chief of Staff for a new record search/certification which I have not had an opportunity to do yet. This request is currently at position #36 in the queue for processing with an anticipated completion date of July 30, 2010.

Your second request (2010-04177-F) the unit advised us they are still searching for and/or reviewing the records for release determinations and advised us they anticipate to have them to us by June 11th. This request is currently at position #46 in our queue for processing with an anticipated completion date of July 30, 2010.

Jennifer Nikolaisen, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

**From:** Willits, Marty (b) (6)  
**Sent:** Saturday, June 05, 2010 1:47 PM  
**To:** NGB FOIA  
**Subject:** Update request for FOIA Appeal #2010-00107-A & FOIA # 2010-04177-F  
**Importance:** High

Ms. Nikolaisen,

Please provide an update on both FOIA request numbers below.

#2010-00107-A: Per your email you anticipate the release occurring 30 May 2010.  
#2010-04177-F: Per your email records were mailed from the TAG and were to be received by your office the week of 12 May 2010 for review and release.

Thank you for your attention to this matter.

Respectfully,

Marty Willits  
(b) (6)

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**From:** NGB FOIA [FOIA@ng.army.mil]  
**Sent:** Thursday, April 15, 2010 12:04 PM  
**To:** Willits, Marty  
**Subject:** Acknowledgement of FOIA Appeal #2010-00107-A (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Mr. Marty Willits

(b) (6)

Dear Mr. Willits:

This letter is to acknowledge receipt of your Freedom of Information Act Appeal of FOIA #2009-04170-F dated April 9, 2010 for additional records in response to the Report of Investigation (ROI) by (b) (6).

Specifically, you are requesting the appointment letter, transcripts of witnesses, taped interviews, legal review, exhibits provided by individuals, and any other existing portions of the ROI, minus the 8 pages previously provided to you through your Congressman. Your request was received in our office on April 12, 2010 and assigned case #2010-00107-A.

We will have a secondary search for responsive records conducted by the Texas Air National Guard and, if no additional records are found, will forward your appeal to the appellate authority and notify you of the referral and their contact information at that time. We anticipate the referral to be completed by May 30, 2010 as a preliminary estimate only. All communications concerning this request should be identified with the above reference number and addressed to the address shown below.

If you have questions regarding your request, please contact me at (703) 607-3195 or by e-mail, [FOIA@ng.army.mil](mailto:FOIA@ng.army.mil).

//SIGNED//

Jennifer Nikolaisen

Chief, Office of Information and Privacy NGB FOIA/Privacy Officer

(703) 607-3195

Fax (703) 607-3684

Office of Chief Counsel (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Ste 11300  
Arlington VA 22202-3231

Classification: UNCLASSIFIED

Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Wednesday, May 12, 2010 12:32 PM  
**To:** (b) (6) (TXANG); (b) (6) USAF ANG 147 RW/CDO  
**Subject:** FOIA Record Search Appeal #2010-00107-A - Suspense: 19 May 10 (UNCLASSIFIED)  
**Attachments:** 2009-04170-F Records for Release.pdf; 2009-04170-F.pdf; 2010-00107-A Appeal.pdf; Sample No Records Certification.doc

Classification: UNCLASSIFIED  
Caveats: NONE

Good morning (b) (6) -

My office has received an appeal to the adequacy of the record search for FOIA #2010-04177-F. As you recall (below) the search you conducted for records resulted in no records; however, the AF/IG provided you a copy of the record in their file; however, the requestor feels the file is incomplete as it does not contain a transcript of witnesses, legal review and other materials that would normally be a part of a CDI.

I do not have a ANG FOIA Manager for the TX JFHQ (only for Army Guard), so I am sending to (b) (6) who assisted in this previously, as well as to (b) (6) at the 147 to conduct a new search for additional records that would belong to this CDI and, if no records exist, provide a signed no records certification (sample attached) so we can forward the appeal up to AF for processing.

I am also attaching a copy of the original FOIA request as well as the records released in response to the original request for your reference.

Thanks in advance -  
Jenny

Jennifer Nikolaisen, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

Attachment Classification: UNCLASSIFIED  
Attachment Caveats: FOUO//PROTECTED BY PRIVACY ACT

Classification: UNCLASSIFIED  
Caveats: NONE

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** Willits, Marty (b) (6)  
**Sent:** Monday, May 03, 2010 11:00 AM  
**To:** NGB FOIA  
**Subject:** FOIA Request  
**Attachments:** FOIA 3 May 2010.pdf

Ms. Nikolaisen,

Please let me know if you need further assistance and if you have any additional questions.

Thank you,  
Marty Willits  
(b) (6)

Chief, National Guard Bureau  
Attn: NGB-JA (FOIA)  
1411 Jefferson Davis Highway  
Arlington, VA 22202-3231  
(703) 607-5901  
Fax requests to: (703) 607-3684  
foia@ng.army.mil

3 May 2010

Re: Freedom of Information Act Request - SMSgt Marty D. Willits, USAFR (Ret) FOIA #2010-04177-F

Ms. Nikolaisen.

Please clarify the two different FOIA numbers provided by your office for our tracking purposes in your email of 27 Apr 2010: 2010-4177-F and FOIA Appeal #2010-00107-A.

This is in reply to your email dated 27 Apr 2010. Please accept this modification to my original FOIA request dated 15 Apr 2010 and provide the following documents:

- **(b)(6) - Privacy Act Request**

- TAG's policy on Selective Retention Review Board (SRRB) for the Texas Air National Guard (TXANG) for 2005 and 2006.
- 147 Civil Engineering Squadron (CES) monthly strength reports for May 06, Feb 07, and Aug 07.
  - By position number, rank, DAFSC, PAFSC, CAFSC, 2AFSC, 3AFSC, 4AFSC.
- 147 CES Professional Military Education Report (PME) status report for period of May 06, Feb 07, and Aug 07 for PME courses or in residence school completions necessary for promotion to E7 – E9.
- 147 CES monthly Unit Manning Documents (UMD) also referred to as Unit Personnel Management Roster (Air National Guard) from May 06, Feb 07, Aug 07, and Dec 07.
  - By position number, rank, DAFSC, PAFSC, CAFSC, 2AFSC, 3AFSC, 4AFSC.
- The following UMD and assignment information for the military member(s) assigned to my former UMD position 0213317, DAFSC 3E691, Operations Management Superintendent, after my retirement of 31 Dec 06:
  - Date and rank when assigned to this position
  - Date completed 3E631 technical school
  - PME status

SMSgt Marty D. Willits, USAFR (Ret.) **(b) (6)**

- PAFSC / CAFSC / DAFSC / 2AFSC / 3AFSC / 4AFSC
- Total time in service / Total time in grade
- Total Active Federal Military Service (TAFMS) years
- Total years federal civil service towards retirement
- The following information, according to the NGB Form 27, signed on 28 Feb 06 by Major Matthew Allinson (147 CES, Commander) for the "two promotion eligible MSgts" as of 28 Feb 06:
  - UMD position numbers
  - Rank / Title
  - Title of PME completed
  - PAFSC / CAFSC / DAFSC / 2AFSC / 3AFSC / 4 AFSC / 5AFSC
  - Total time in service / Total time in grade
  - TAFMS / Federal civil service years towards retirement
- The following information according to the NGB Form 27, signed on 28 Feb 06 by Major Matthew Allinson referencing his statement "the three SMSgt positions in the 147<sup>th</sup> CES...are filled by full-time employees, all of which need 5 – 7 years of service before eligible for a full-time retirement." The following are the three UMD SMSgt positions that were filled by the full-time personnel he references. Please provide the number of years till each reaches full-time retirement and the rank held by each as of 28 Feb 06:
  - First military member (Technician) in SMSgt UMD position
    - Position number 0213320 / DAFSC 3E391 / Structural Superintendent /
  - Second military member in SMSgt (AGR Title 32) UMD position
    - Position number 0213317 / DAFSC 3E691 / Operations Management Superintendent
  - Third military member in SMSgt (AGR Title 32) UMD position
    - Position number 0213293 / DAFSC 3E991 / Readiness Superintendent
- The following information according to the NGB Form 27, signed on 6 Mar 06 by Colonel Rodney L. Horn (MSG/CC) for the "Four MSgts and one SMSgt currently listed as excess in the 3EXXX AFSCs are blocked by SMSgt Willits."
  - UMD position numbers
  - Rank / Title
  - Title of PME completed
  - PAFSC / CAFSC / DAFSC / 2AFSC / 3AFSC / 4 AFSC / 5AFSC
  - Total time in service / Total time in grade
  - TAFMS / Federal civil service years towards retirement
- The following information according to the NGB Form 27, signed on 23 Apr 06 by Colonel Lanny B. McNeely (Wing/CC) for all "numerous qualified individuals" he referenced I was "blocking" for promotion.
 

SMSgt Marty D. Willits, USAFR (Ret.) | (b) (6)

- UMD position numbers
  - Rank / Title
  - Title of PME completed
  - PAFSC / CAFSC / DAFSC / 2AFSC / 3AFSC / 4 AFSC / 5AFSC
  - Total time in service / Total time in grade
  - TAFMS / Federal civil service years towards retirement
- Number of personnel in the 147<sup>th</sup> CES and 147<sup>th</sup> FW members who held the 3E631 (Operations three level technical school) or held a five skill level or higher in the 3E6X1 career field at the time of the NGB Form 27 submittal 23 Apr 06.
  - E-mail correspondence between NGB and Col McNeely and/or Col Horn per their discussion of administrative considerations for my career to include the proposed demotion from SMSgt to MSgt to the IO, BG Thomas J. Haynes. A review of BG Haynes' March 2007 CDI, Tab G (31) will assist in producing this document. Since this e-mail would be a discussion about me, I believe only the name(s) of NGB or other military personnel contacts would be redacted.
  - The following was provided by the TAG's Department. According to (b) (6) Executive Assistant to the Chief, Joint Staff, correspondence with Texas State Representative (b) (6) (1 Mar 07), "Offering retention with demotion is extremely rare. In fact it has been offered only once in over 25 years. In that instance the individual was overgrade (E-8 assigned to an E-7 position)..." Upon petitioning my elected officials, both state and federal, it was verbally communicated to me, the TAG'S Department was referring to me as the individual in this letter. I request the TAG's Department provide documentation I am the individual (b) (6) (b) (6) is referencing in this letter.

This request is made pursuant to the Freedom of Information Act, 5 U.S.C. §552. I respectfully request a waiver of any fees that may be associated with this request. If a wavier is denied, I hereby offer to pay \$150 in reasonable search and copying charges. Please telephone me if charges are expected to exceed that figure. Please provide the requested documents no later than 30 Jun 2010. Thank you for your assistance and patience in this important matter.

Respectfully

(b) (6)

Marty D. Willits

CC:

(b) (6) Attorney

(b) (6)

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** Willits, Marty (b) (6)  
**Sent:** Wednesday, April 28, 2010 9:29 AM  
**To:** NGB FOIA  
**Subject:** RE: Acknowledgement of FOIA Appeal #2010-00107-A (UNCLASSIFIED)

Ms Nikolaisen,

Per your email, I will modify and amend this request to allow for a more timely processing. Thank you for your very timely responsiveness to my request.

Respectfully,  
Marty Willits  
(b) (6)

---

**From:** NGB FOIA [FOIA@ng.army.mil]  
**Sent:** Tuesday, April 27, 2010 8:34 AM  
**To:** Willits, Marty  
**Subject:** RE: Acknowledgement of FOIA Appeal #2010-00107-A (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Mr. Marty Willits

(b) (6)

Dear Mr. Willits:

This letter is to acknowledge receipt of your Freedom of Information Act request dated April 15, 2010 for records on the following:

- 1) Texas Adjutant General's Policy on Selective Retention Review Board for May 2006
- 2) 147 Civil Engineering Squadron (CES) Strength Reports for Jan-Apr 06 & Jan-Apr 07
- 3) 147 CES Professional Military Education Report (PME) for period of Jan 06 - Apr 07
- 4) 147 CES Unit Manning Documents (UM)D from Jan 06 - Dec 07
- 5) Name and rank of individual placed in Operations Superintendent 3E691 Position after December 31, 2006 and date placement became official
- 6) Names of all officers serving as the Director of Personnel from 2000-2006 and time period served
- 7) Names of two "promotion eligible MSgts" and their primary AFSC, Control AFSC, and DAFSC and type of PME completed that were referenced on NGB 27 Form signed on February 28, 2006 by

(b) (6)

8) Names of four MSgts listed as excess in the 3EXXX AFSCs Colonel Horn stated you were blocking on NGB 27 signed by Col McNeely on April 23, 2006 and their PAFSC, CAFSC, DAFSC and PME completion information

9) Names and specific numbers of all "numerous qualified individuals" Colonel McNeely stated you were blocking on NGB 27 signed on April 23, 2006 and their PAFSC, CAFSC, DAFSC, and PME completion information

10) Names or numbers of all 147 CES members who had PME Course 8 and 3E631 operations technical school at the time of NGB 27 Forms submittal (April 23, 2006)

11) Names or numbers of all Air Guard Reservist (AGR), Title 32 members since 1997 who were non-retained having reached 20 years combined service (Active Duty and Traditional Guard service), however had not reached 20 years Total Active Federal Military Service and who were within 12 months of reaching sanctuary (18 years of service)

Your request has been assigned case #2010-04177-F. Please be advised, all requests for records that are Air National Guard must come only to our office, any other offices are not required to act upon requests made under the FOIA so your request made to Texas was properly routed to our office on April 23, 2010.

As a preliminary matter, please also be advised that the Department of Defense policy prohibits the release of lists of names of our agency personnel to members of the public, a policy that has been upheld numerous times in court proceedings under FOIA. Because of the volume of records being searched for, it is likely that the search time will exceed 2 hours and there will be a requirement to pay fees, even if the records are denied in their entirety due to the DoD Policy, or if no records are found.

As a preliminary estimate only, we do not anticipate completion of the request until around July 30, 2010; however, if you would like to modify or amend your request to allow for a more timely processing please contact my office for modification. If you have any questions regarding your request, please contact my office at (703) 607-3195.

// SIGNED //

Jennifer Nikolaisen, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

Classification: UNCLASSIFIED  
Caveats: NONE

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** NGB FOIA  
**Sent:** Thursday, April 15, 2010 3:04 PM  
**To:** (b) (6)  
**Subject:** Acknowledgement of FOIA Appeal #2010-00107-A (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Mr. Marty Willits

(b) (6)

Dear Mr. Willits:

This letter is to acknowledge receipt of your Freedom of Information Act Appeal of FOIA #2009-04170-F dated April 9, 2010 for additional records in response to the Report of Investigation (ROI) by (b) (6). Specifically, you are requesting the appointment letter, transcripts of witnesses, taped interviews, legal review, exhibits provided by individuals, and any other existing portions of the ROI, minus the 8 pages previously provided to you through your Congressman. Your request was received in our office on April 12, 2010 and assigned case #2010-00107-A.

We will have a secondary search for responsive records conducted by the Texas Air National Guard and, if no additional records are found, will forward your appeal to the appellate authority and notify you of the referral and their contact information at that time. We anticipate the referral to be completed by May 30, 2010 as a preliminary estimate only. All communications concerning this request should be identified with the above reference number and addressed to the address shown below.

If you have questions regarding your request, please contact me at (703) 607-3195 or by e-mail, [FOIA@ng.army.mil](mailto:FOIA@ng.army.mil).

//SIGNED//

Jennifer Nikolaisen  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195  
Fax (703) 607-3684

Office of Chief Counsel (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Ste 11300  
Arlington VA 22202-3231

Classification: UNCLASSIFIED  
Caveats: NONE

**Nikolaisen, Jennifer A Ms CIV NG NGB ARNG**

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**From:** (b) (6)  
**Sent:** Monday, April 12, 2010 9:48 AM  
**To:** NGB FOIA  
**Subject:** Letter to FOIA Dept - Army 9 Apr 10.pdf - Adobe Acrobat Professional FOIA #2009-04170-F  
**Attachments:** Letter to FOIA Dept - Army 9 Apr 10.pdf

Ms. Nikolaisen,

Per your conversation with (b) (6) this morning, attached is his appeal/request for further documentation in regards to the Commander Directed Investigation (CDI) initiated by MG Allen Dehnert (TXANG) August 2006, conducted and completed by (b) (6) 1 November 2006.

This is a time sensitive request. We would appreciate the documents requested be provided no later than 1 May 2010. As you are aware, this request is in excess of 80 months.

Should you have any questions, please use the contact information on the letter. Thank you for your time and we look forward to hearing from you.

Sincerely,

(b) (6)

FOIA Request # 2009-04170-F

FOIA/PA Request

Case No: 2010-00107A  
Date Rcvd: 12 Apr 10  
Date Due: 10 May 10  
Rcvd By: NGB/PA-OWP JD  
MJC

Office of Information and Privacy (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Suite 11300  
Arlington, VA 22202-3231  
C/O (b) (6) US Army Chief Counsel/NGB  
& Ms. Jennifer Nikolaisen, NGB FOIA Officer

RE: FOIA request # 2009-04170-F (FOIA Appeal)

9 April 2010

(b) (6) and Ms. Nikolaisen,

Since you communicated directly to Congressman Ted Poe, protocol required further requests regarding National Guard Bureau's (NGB) release of (b) (6) Commander Directed Investigation (CDI) as directed by MG Allen Dehnert Aug 06 would have come from his staff. We have received correspondence from Congressman Poe stating any further requests regarding this issue would need to come directly from myself.

In order to accomplish this please accept this correspondence as my formal appeal and request for the following information. Since Aug 06, numerous requests have been made to Texas Air National Guard (TXANG) and NGB for a complete copy of (b) (6) CDI. After nearly three years of requests, both verbal and written, the NGB releases (b) (6) Report of Investigation (ROI) to Congressman Ted Poe only, and not the entire CDI as was requested.

Please accept this as another FOIA request for the following:

- MG Dehnert's letter (4 Aug 06) detailing (b) (6) as IO. This is requested in order to determine the areas (b) (6) was to investigate.
- Transcripts of Witnesses, Complainant and Subject. These documents are requested in order to determine areas investigated, questions asked, and answers provided by Col Horn (subject of complaint), six witnesses, and myself. (b) (6) taped all interviews.
- Legal Review of (b) (6) findings.
- Exhibits provided by all individuals questioned.
- Any other existing portions of CDI, minus the eight pages provided to Congressman Poe.

Should your staff be unable to release the above mentioned documents, due to inability to locate or lack of existence, please provide in writing with as much specificity to each area requested. Should these documents exist, yet NGB declines to release them, I request this too be put in writing.

I am aware, after viewing other TXANG CDI FOIA requests, that the above documents are included in a release of a complete CDI and not just the ROI alone; as was in my case.

The purpose of this correspondence is not just a data request, but an ongoing effort to gather supporting documentation to correct errors and injustices. Should there be any questions, you may reach me at the address below or via email at (b) (6) I look forward to receiving your response.

Very Respectfully,



Marty Willits

(b) (6)



CASE STATUS LOG FREEDOM OF INFORMATION ACT/PRIVACY ACT		CASE # 2010-05422-F
DATE	ACTION	ACTION OFFICER
	assigned to Jenny	
18 Jun 10	ack sent - request on hold pending fee agreement close if no resp by 30 Jun 10	Jenny
18 Jun 10	ack sent - fee agreement rec'd - \$2,500	
25 Jun 10	tasked to A3 + JA for search w/ 6 Jul suspense	Jenny
9 Aug 10	follow up to A3 + JA sent	Jenny
2 Sep 10	requestor called for status - advised #13 in queue - still awaiting outcome of search ongoing w/ JA + counterdrug	Jenny
7 Sep 10	tasked AT + A3 for search (b) (6) + SI (b) (6) counterdrug has no records	Jenny
15 Sep 10	A3 has no records - still awaiting AT	
21 Sep 10	follow up email sent to AUS RC	Jenny
21 Sep 10	follow up email sent to AUS RC	
30 Sep 10	rec'd volumes of records - not organized nor duplicates out	
10 Oct 10	tasked AUS RC to consolidate all of their records into 1 email revng emails from CPZS that they will not work clear on duplicates + no release recommendations or redactions are done yet	Jenny
8 Nov 10	follow up reminder sent to AUS RC	
18 Nov 10	AUS RC AT still working this	
20 Dec 10	follow up sent to AUS RC for status	
10 Jan 11	follow up sent to AUS RC for status	
17 Jan 11	AUS RC AT new chief will start 1 Feb - advised cannot continue to delay - need priority on this - recommended AT contact AT on this	Jenny

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** (b) (6) USAF ANG NGB/A6KS (b) (6)  
**Sent:** Thursday, November 18, 2010 7:20 AM  
**To:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** FW: FOIA REQUEST - #2010-05422-F email 2 of 2 (UNCLASSIFIED)  
**Signed By:** (b) (6)

Good morning Ms. Nikolaisen, please read feedback from A1 on tasker 05422.

-----Original Message-----

**From:** (b) (6) USAF ANG NGB/A1P  
**Sent:** Wednesday, November 17, 2010 4:18 PM  
**To:** (b) (6) USAF ANG NGB/A6KS  
**Cc:** (b) (6) USAF ANG NGB/A1E  
**Subject:** RE: FOIA REQUEST - #2010-05422-F email 2 of 2 (UNCLASSIFIED)

I have talked to (b) (6) and we are going to work this. The problem is (b) (6) has PCSd and (b) (6) is here TDY, Friday is his last day here.

WE will do everything we can to make this go away.

(b) (6)

Knowledge Operations Management/A1PI  
1411 Jefferson Davis Highway  
Jefferson Plaza One, Suite 10807  
Arlington, VA 22202-3231  
DSN: 327-5079 Comm: (703)607-5079  
Fax: DSN: 327-5915 Comm: 703-607-5915  
Check out the new ANG FSS CoP @  
<https://wwwd.my.af.mil/afknprod/ASPs/CoP/OpenCoP.asp?Filter=AN-DP-01-97>  
<<https://wwwd.my.af.mil/afknprod/ASPs/CoP/OpenCoP.asp?Filter=AN-DP-01-97>>

-----Original Message-----

**From:** (b) (6) USAF ANG NGB/A6KS  
**Sent:** Wednesday, November 17, 2010 3:46 PM  
**To:** (b) (6) USAF ANG NGB/A1P  
**Subject:** RE: FOIA REQUEST - #2010-05422-F email 2 of 2 (UNCLASSIFIED)

Thank (b) (6).

-----Original Message-----

**From:** (b) (6) USAF ANG NGB/A1P  
**Sent:** Wednesday, November 17, 2010 1:48 PM  
**To:** (b) (6) USAF ANG NGB/A6KS  
**Cc:** (b) (6) USAF ANG NGB/A1E  
**Subject:** RE: FOIA REQUEST - #2010-05422-F email 2 of 2 (UNCLASSIFIED)

(b) (6)

I have forwarded your email to (b) (6) to work with the previous A1PF to complete this. (b) (6) is at the Senior Leadership conference this week, but should be back on Friday.

We will work to close this out as soon as we can.

V/R

(b) (6)

(b) (6) USAF  
Knowledge Operations Management/A1PI  
1411 Jefferson Davis Highway  
Jefferson Plaza One, Suite 10807  
Arlington, VA 22202-3231  
DSN: 327-5079 Comm: (703)607-5079  
Fax: DSN: 327-5915 Comm: 703-607-5915  
Check out the new ANG FSS CoP @  
<https://wwwd.my.af.mil/afknprod/ASPs/CoP/OpenCoP.asp?Filter=AN-DP-01-97>  
<<https://wwwd.my.af.mil/afknprod/ASPs/CoP/OpenCoP.asp?Filter=AN-DP-01-97>>

-----Original Message-----

From: (b) (6) USAF ANG NGB/A6KS  
Sent: Wednesday, November 17, 2010 10:18 AM  
To: (b) (6) USAF ANG NGB/A1P; (b) (6) USAF ANG NGB/A1E  
Subject: FW: FOIA REQUEST - #2010-05422-F email 2 of 2 (UNCLASSIFIED)  
Importance: High

Good day everyone, Any feedback available?

-----Original Message-----

From: (b) (6) USAF ANG NGB/A6KS  
Sent: Monday, November 15, 2010 12:43 PM  
To: (b) (6) USAF ANG NGB/A1P  
Cc: (b) (6) USAF ANG NGB/A1E  
Subject: FW: FOIA REQUEST - #2010-05422-F email 2 of 2 (UNCLASSIFIED)  
Importance: High

(b) (6), here is the guidance for the records that your office submitted.  
Give me a call if you need anything.

(b) (6)

//SIGNED//

(b) (6)

Knowledge Operations ANGRC Functional Manager

3501 Fetchet Ave  
Joint Base Andrews AFB, MD 20762-5157  
Comm: 301-836-7381 DSN: 278-7381  
Fax: 301-836-7746 DSN: 278-7746  
Email (b) (6)

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG

(b) (6)

Sent: Friday, October 15, 2010 10:16 AM

To: (b) (6) USAF ANG NGB/A6KS

Subject: RE: FOIA REQUEST - #2010-05422-F email 2 of 2 (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

The attached file is a consolidation of all the records received by A1. For ease in review of any future ones, they should consolidate their files into one .pdf before they come to us -- I am unclear on what the order for the records should be so I just put them all together, but some records seem to be draft (i.e. SSS that don't have signatures, etc.). Recommend A1 search to validate whether the signed SSS exists and replace the "Word" version which doesn't show coordination with the "Final" version signed (if it was in fact routed).

A1 will also need to go through the documents and indicate what portions of the records they recommend non-disclosure of and mark them with the appropriate FOIA exemptions. If they want to use Adobe Pro (recommended), instructions for redacting are on our GKO FOIA site. Otherwise, they can print the documents and highlight the portions they are recommending be exempt using a green highlighter (we have a special scanner that will take green highlighted information and turn it into black on the computer screen for release to the requestor), and mark the FOIA exemption next to the part being highlighted (i.e. if it is a name being highlighted write (b)(6) next to or above the information).

The OPR then needs to do a cover letter back to us justifying their recommended withholding exemptions (a sample for them to use is attached).

Please have them complete this within the next week so we can get this closed out. Thanks!

Jenny

Jennifer Nikolaisen, GS-14, CIPP/G

Chief, Office of Information and Privacy NGB FOIA/Privacy Officer

(703) 607-3195, DSN 327-3195

-----Original Message-----

From: Beharry, Ronnie T MSGT MIL NG NGB ARNG

Sent: Tuesday, October 12, 2010 11:57 AM

To: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG

Subject: FW: FOIA REQUEST - #2010-05422-F email 2 of 2

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From: (b) (6) USAF ANG NGB/A6KS

Sent: Tue 10/12/2010 10:00 AM

To: Beharry, Ronnie T MSGT MIL NG NGB ARNG

Subject: FW: FOIA REQUEST - #2010-05422-F email 2 of 2

-----Original Message-----

From: (b) (6) USAF ANG NGB/A1P  
Sent: Tuesday, October 05, 2010 10:33 AM  
To: (b) (6) USAF ANG NGB/A6KS  
Cc: (b) (6) USAF ANG NGB/A1E  
Subject: FOIA REQUEST - #2010-05422-F email 2 of 2

Attached are files that we found in reference to the RC-26 review.

Do all files get released as is, or does someone review them prior to release?

Just wondering.

V/R

(b) (6)

<<...>> <<...>> <<...>> <<...>> <<...>> <<...>> <<...>>

(b) (6)

Knowledge Operations Management/A1PI

1411 Jefferson Davis Highway

Jefferson Plaza One, Suite 10807

Arlington, VA 22202-3231

DSN: 327-5079 Comm: (703)607-5079

Fax: DSN: 327-5915 Comm: 703-607-5915

Check out the new ANG FSS CoP @

<https://wwwd.my.af.mil/afknprod/ASPs/CoP/OpenCoP.asp?Filter=AN-DP-01-97>  
<<https://wwwd.my.af.mil/afknprod/ASPs/CoP/OpenCoP.asp?Filter=AN-DP-01-97>>  
<<https://wwwd.my.af.mil/afknprod/ASPs/CoP/OpenCoP.asp?Filter=AN-DP-01-97>>  
<<https://wwwd.my.af.mil/afknprod/ASPs/CoP/OpenCoP.asp?Filter=AN-DP-01-97>> >

Attachment Classification: UNCLASSIFIED  
Attachment Caveats: FOUO//PROTECTED BY PRIVACY ACT

Classification: UNCLASSIFIED  
Caveats: NONE

## Beharry, Ronnie T Mr CIV NG NGB ARNG

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**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Monday, November 08, 2010 5:08 PM  
**To:** (b) (6) NGB/A7CVA  
**Subject:** Reminder to ANGRC 8 Nov 10  
**Signed By:** (b) (6)

Classification: UNCLASSIFIED  
Caveats: NONE

We were provided a sleuth of records from both A1 and A3 but we need one consolidated answer representing all of the ANGRC and the records need to be reviewed to remove any duplicate/extraneous material and all information exempt from release must be marked - either using Adobe Pro or using a green highlighter.

The requestor has been very adamant in asking for updates on his records, this is currently request #2 in our queue but we cannot take action until we have a product that is ready to send in for a legal review and we were given so many files and unsure what records go in what order, unsure what the release recommendations are, etc. that we can't proceed until we have that.

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

**From:** (b) (6) USAF ANG NGB/A6KS  
(b) (6)  
**Sent:** Monday, November 08, 2010 4:59 PM  
**To:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** FW: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)  
**Importance:** High

Miss Nikolaisen, I was informed by (b) (6) that this was submitted to you.

-----Original Message-----

**From:** (b) (6) USAF ANG NGB/A1E  
**Sent:** Monday, October 04, 2010 11:50 AM  
**To:** (b) (6) USAF ANG NGB/A6KS  
**Cc:** (b) (6) USAF ANG NGB/A1E  
**Subject:** FW: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)  
**Importance:** High

This info was sent to Jennifer on Thursday.

(b) (6)  
NGB/A1  
Manpower, Personnel and Services Issues and Initiatives  
1411 Jefferson Davis Hwy  
Arlington, VA 22202

Comm. 703.607.5932

DSN 327.5932

(b) (6)

"This electronic transmission contains FOR OFFICIAL USE ONLY (FOUO) information which must be protected under Privacy Act 1974 and AFI 33-332. Do not release outside of DoD channels with the consent of originator's office. If you received this message in error, please notify the sender by reply e-mail and delete all copies of the message."

-----Original Message-----

From: (b) (6) USAF ANG NGB/A1E  
Sent: Monday, October 04, 2010 11:37 AM  
To: (b) (6) USAF ANG NGB/A1E  
Subject: FW: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)  
Importance: High

-----Original Message-----

From: (b) (6) USAF ANG NGB/A6KS  
Sent: Monday, October 04, 2010 6:50 AM  
To: (b) (6) USAF ANG NGB/A1E  
Cc: (b) (6) USAF ANG NGB/A1P  
Subject: FW: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)  
Importance: High

Good morning (b) (6), any feed back with this request?

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
(b) (6)  
Sent: Thursday, September 30, 2010 3:01 PM  
To: (b) (6) USAF ANG NGB/A6KS  
Cc: (b) (6) USAF ANG NGB/A1E  
Subject: RE: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Any update on this one as well?

Thanks -  
Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: (b) (6) USAF ANG NGB/A6KS  
(b) (6)  
Sent: Friday, September 17, 2010 10:41 AM  
To: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Subject: RE: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)

Jennifer, A1 will have the No records certification form signed by Monday.  
Sorry for the delay.

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG

(b) (6)

Sent: Wednesday, September 15, 2010 3:30 PM

To: (b) (6) USAF ANG NGB/A6CK

Subject: RE: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Thanks - has A1 given a date on when they may have their search complete?

Jennifer Nikolaisen, GS-14, CIPP/G

Chief, Office of Information and Privacy NGB FOIA/Privacy Officer

(703) 607-3195, DSN 327-3195

-----Original Message-----

From: (b) (6) USAF ANG NGB/A6CK

(b) (6)

Sent: Wednesday, September 15, 2010 7:36 AM

To: Beharry, Ronnie T MSGT MIL NG NGB ARNG; (b) (6) NGB/CSCS

Cc: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG; (b) (6) - NGB/A1E

Subject: FW: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)

Importance: High

Got a response from A3, but nothing from A1.

Classification: UNCLASSIFIED

Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Friday, November 05, 2010 8:59 AM  
**To:** (b) (6) NGB/A7CVA  
**Subject:** Overdue FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)  
**Attachments:** 2010-05422-F.pdf

Classification: UNCLASSIFIED  
Caveats: NONE

Good morning (b) (6) -

Our records indicate this request is now 77 days overdue. Do you have an estimated completion date when the centralized final response on behalf of the ANGR/CC will be finalized? As I recall we got multiple records from multiple sources but the OPRs did not remove duplicate material nor make any disclosure recommendations as required.

Thanks in advance -  
Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Tuesday, September 07, 2010 8:38 AM  
**To:** (b) (6) NGB/A7CVA  
**Subject:** FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good morning -

Attached is another new request, I showed that I tasked this to A3 but I can't find the e-mail on it nor any response from them, but it looks like A1 and A3 both need to be tasked to search for records on this one.

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

**From:** (b) (6) MIL NG NGB ARNG  
**Sent:** Thursday, September 02, 2010 12:02 PM  
**To:** (b) (6) MIL NG NGB ARNG  
**Cc:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** RE: RC-26 FOIA Info (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: FOUO

Hi (b) (6),

Can't find anything on the shared drive and in my paper files. ANG A3 and A1, along with the J1, may have something. Time frame should be from about Feb 07 to Jul 07.

(b) (6)

NGB-J32-CDA

DSN 327-1729

Comm (703) 607-1729

(b) (6)

-----Original Message-----

From: (b) (6) MIL NG NGB ARNG  
Sent: Thursday, September 02, 2010 11:54 AM  
To: (b) (6) MIL NG NGB ARNG  
Cc: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Subject: RC-26 FOIA Info (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: FOUO

(b) (6):

Any luck on that FOIA information.

(b) (6)

Classification: UNCLASSIFIED

Caveats: FOUO

Classification: UNCLASSIFIED

Caveats: FOUO

Classification: UNCLASSIFIED

Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Tuesday, September 07, 2010 8:38 AM  
**To:** (b) (6) NGB/A7CVA  
**Subject:** FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)  
**Attachments:** 2010-05422-F.pdf

Classification: UNCLASSIFIED  
Caveats: NONE

Good morning -

Attached is another new request, I showed that I tasked this to A3 but I can't find the e-mail on it nor any response from them, but it looks like A1 and A3 both need to be tasked to search for records on this one.

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

**From:** (b) (6) MIL NG NGB ARNG  
**Sent:** Thursday, September 02, 2010 12:02 PM  
**To:** (b) (6) MIL NG NGB ARNG  
**Cc:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** RE: RC-26 FOIA Info (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: FOUO

Hi (b) (6),

Can't find anything on the shared drive and in my paper files. ANG A3 and A1, along with the J1, may have something. Time frame should be from about Feb 07 to Jul 07.

(b) (6)  
NGB-J32-CDA  
DSN 327-1729  
Comm (703) 607-1729  
BB (571)-212-7565

-----Original Message-----

**From:** (b) (6) MIL NG NGB ARNG  
**Sent:** Thursday, September 02, 2010 11:54 AM  
**To:** (b) (6) MIL NG NGB ARNG  
**Cc:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** RC-26 FOIA Info (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: FOUO

(b) (6)

Any luck on that FOIA information.

(b) (6)

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** NGB FOIA  
**Sent:** Wednesday, October 27, 2010 12:45 PM  
**To:** (b) (6) NGB/A7CVA  
**Cc:** (b) (6) NGB/CFX  
**Subject:** FW: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)  
**Attachments:** FOIA #2010-05422 (3.07 MB); FOIA #2010-05422 (1.95 MB); FOIA #2010-05422-F (616 KB); FOIA #2010-05422-F (1.84 MB); FW: FOIA Record Search #2010-05825-F - Suspense: 10 Sep 10 (UNCLASSIFIED) (7.47 KB); FW: FOIA Record Search #2010-05825-F - Suspense: 10 Sep 10 (UNCLASSIFIED) (7.43 KB); RE: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED) (9.28 KB)  
**Signed By:** (b) (6)

Classification: UNCLASSIFIED  
Caveats: NONE

Attached are additional documents from your A1 that should be consolidated in with the others responsive to the request for one response representing the ANG RC. I am not sure if (b) (6) already sorted out duplicates within his files, etc. but his office will need to go through and appropriately mark any information exempt from release (It doesn't appear this was done yet).

Thanks in advance -

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

**From:** (b) (6) USAF ANG NGB/A1E  
(b) (6)  
**Sent:** Monday, October 25, 2010 4:24 PM  
**To:** NGB FOIA  
**Subject:** RE: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)

To be honest Jennifer I think so, but I don't know that I saved the emails to be sure because the files take up so much space. Would you please forward.....

(b) (6)

-----Original Message-----

**From:** NGB FOIA [<mailto:FOIA@ng.army.mil>]  
**Sent:** Monday, October 25, 2010 4:21 PM  
**To:** (b) (6) USAF ANG NGB/A1E  
**Subject:** RE: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good afternoon -

Did you send all your files to (b) (6) as well? Her office will work with A1 to consolidate everything together, I have received about 12 e-mails and a sleuth of files on this and am not sure what may be duplicate, what order it should be in, etc. but need actually just one consolidated response representing all of the ANGRC to include the documents from A1. In addition, the documents need to be marked indicating information they believe should be exempt under FOIA along with the appropriate FOIA exemption and harm justification.

Let me know if I should forward these files to (b) (6) or if you already provided them to her for the consolidated response.

Thanks in advance -  
Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: (b) (6) USAF ANG NGB/A1E  
(b) (6)  
Sent: Thursday, September 30, 2010 3:15 PM  
To: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Subject: RE: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)

This is the one with the files. I will send you separate emails because the files are large.

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
(b) (6)  
Sent: Thursday, September 30, 2010 3:01 PM  
To: (b) (6) USAF ANG NGB/A6KS  
Cc: (b) (6) USAF ANG NGB/A1E  
Subject: RE: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Any update on this one as well?

Thanks -  
Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: (b) (6) USAF ANG NGB/A6KS  
(b) (6)  
Sent: Friday, September 17, 2010 10:41 AM  
To: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG

Subject: RE: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)

Jennifer, A1 will have the No records certification form signed by Monday.  
Sorry for the delay.

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG

(b) (6)

Sent: Wednesday, September 15, 2010 3:30 PM

To: (b) (6) USAF ANG NGB/A6CK

Subject: RE: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Thanks - has A1 given a date on when they may have their search complete?

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: (b) (6) USAF ANG NGB/A6CK

(b) (6)

Sent: Wednesday, September 15, 2010 7:36 AM

To: Beharry, Ronnie T MSGT MIL NG NGB ARNG; (b) (6) NGB/CSCS

Cc: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG; (b) (6) - NGB/A1E

Subject: FW: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)

Importance: High

Got a response from A3, but nothing from A1.

Classification: UNCLASSIFIED

Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE

**Nikolaisen, Jennifer A Ms CIV NG NGB ARNG**

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**From:** Beharry, Ronnie T MSGT MIL NG NGB ARNG  
**Sent:** Tuesday, October 12, 2010 11:57 AM  
**To:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** FW: FOIA REQUEST - #2010-05422-F email 2 of 2  
**Attachments:** Clarification for Transition from AGR to FTNGD.PDF; Qualification for ACP for counter drug.pdf; RC-26 response.pdf; RC-26 response.pdf; staff package.pdf; misc.pdf; misc.pdf  
**Signed By:** (b) (6)

---

**From:** (b) (6) USAF ANG NGB/A6KS  
**Sent:** Tue 10/12/2010 10:00 AM  
**To:** Beharry, Ronnie T MSGT MIL NG NGB ARNG  
**Subject:** FW: FOIA REQUEST - #2010-05422-F email 2 of 2

-----Original Message-----

**From:** (b) (6) USAF ANG NGB/A1P  
**Sent:** Tuesday, October 05, 2010 10:33 AM  
**To:** (b) (6) USAF ANG NGB/A6KS  
**Cc:** (b) (6) USAF ANG NGB/A1E  
**Subject:** FOIA REQUEST - #2010-05422-F email 2 of 2

Attached are files that we found in reference to the RC-26 review.

Do all files get released as is, or does someone review them prior to release?

Just wondering.

V/R

(b) (6)

<<...>> <<...>> <<...>> <<...>> <<...>> <<...>> <<...>>

(b) (6)

Knowledge Operations Management/A1PI

1411 Jefferson Davis Highway

Jefferson Plaza One, Suite 10807

Arlington, VA 22202-3231

DSN: 327-5079 Comm: (703)607-5079

Fax: DSN: 327-5915 Comm: 703-607-5915

Check out the new ANG FSS CoP @

<https://wwwd.my.af.mil/afknprod/ASPs/CoP/OpenCoP.asp?Filter=AN-DP-01-97>

<<https://wwwd.my.af.mil/afknprod/ASPs/CoP/OpenCoP.asp?Filter=AN-DP-01-97>>

<<https://wwwd.my.af.mil/afknprod/ASPs/CoP/OpenCoP.asp?Filter=AN-DP-01-97>

<<https://wwwd.my.af.mil/afknprod/ASPs/CoP/OpenCoP.asp?Filter=AN-DP-01-97>> >

**Nikolaisen, Jennifer A Ms CIV NG NGB ARNG**

---

**From:** (b) (6) USAF ANG NGB/A1PF (b) (6)  
**Sent:** Friday, September 24, 2010 8:59 AM  
**To:** (b) (6) USAF ANG NGB/A1P  
**Subject:** RE: FOIA #2010-05422-F  
**Attachments:** NGB A1 CD Clarification and Guidance - 25 Apr 07.pdf; RC26 VTC 23 Apr 07 A1.ppt; RC-26 CONOPS v9.doc; RC-26 CONOPS v9.doc 1.dat; The Aviator Continuation Program.doc; Updated Personnel Guidance for RC-26 2 Jul 08.doc  
**Signed By:** (b) (6)  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

2nd portion.

-----Original Message-----

**From:** (b) (6) USAF ANG NGB/A1P  
**Sent:** Wednesday, September 22, 2010 3:48 PM  
**To:** (b) (6) USAF ANG NGB/A1PF; (b) (6)  
USAF ANG NGB/A1PF  
**Cc:** (b) (6) USAF ANG NGB/A1P  
**Subject:** FW: FOIA #2010-05422-F  
**Importance:** High

Here is the electronic version of the FOIA request that I provided you a copy of today.

V/R

(b) (6)

(b) (6)

Knowledge Operations Management/A1PI  
1411 Jefferson Davis Highway  
Jefferson Plaza One, Suite 10807  
Arlington, VA 22202-3231  
DSN: 327-5079 Comm: (703)607-5079  
Fax: DSN: 327-5915 Comm: 703-607-5915  
Check out the new ANG FSS CoP @  
<https://www.dmy.af.mil/afknprod/ASPs/CoP/OpenCoP.asp?Filter=AN-DP-01-97>  
<<https://www.dmy.af.mil/afknprod/ASPs/CoP/OpenCoP.asp?Filter=AN-DP-01-97>>

-----Original Message-----

**From:** (b) (6) USAF ANG NGB/A1E  
**Sent:** Wednesday, September 22, 2010 12:36 PM  
**To:** (b) (6) USAF ANG NGB/A1P  
**Cc:** (b) (6) USAF ANG NGB/A6KS; (b) (6) USAF ANG NGB/A1E  
**Subject:** FW: FOIA #2010-05422-F  
**Importance:** High

(b) (6)

Please forward this to the Correct POC: (b) (6) and anyone else that may have material pertaining to this FOIA. If this is not info that can be provided please get back to me and let me know.

V/r

(b) (6)

-----Original Message-----

From: (b) (6) USAF ANG NGB/A6KS  
Sent: Wednesday, September 22, 2010 10:43 AM  
To: (b) (6) USAF ANG NGB/A1E; (b) (6) USAF ANG NGB/A3  
Subject: FW: FOIA #2010-05422-F  
Importance: High

Good morning (b) (6) and (b) (6), I am trying to close all incomplete request this one belongs to your sections. It's an oldie but needs to be closed. please provide feedback if you have any documentation or no documentation. If no documentation please complete the no records certification form. Please complete by 30 September 2010. Thank you.

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
(b) (6)  
Sent: Tuesday, September 07, 2010 8:38 AM  
To: (b) (6) NGB/A7CVA  
Subject: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good morning -

Attached is another new request, I showed that I tasked this to A3 but I can't find the e-mail on it nor any response from them, but it looks like A1 and A3 both need to be tasked to search for records on this one.

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: (b) (6) MIL NG NGB ARNG  
Sent: Thursday, September 02, 2010 12:02 PM  
To: (b) (6) MIL NG NGB ARNG  
Cc: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG

Subject: RE: RC-26 FOIA Info (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: FOUO

Hi (b) (6)

Can't find anything on the shared drive and in my paper files. ANG A3 and A1, along with the J1, may have something. Time frame should be from about Feb 07 to Jul 07.

(b) (6)

NGB-J32-CDA

DSN 327-1729

Comm (703) 607-1729

BB (b) (6)

-----Original Message-----

From: (b) (6) MIL NG NGB ARNG

Sent: Thursday, September 02, 2010 11:54 AM

To: (b) (6) MIL NG NGB ARNG

Cc: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG

Subject: RC-26 FOIA Info (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: FOUO

(b) (6)

Any luck on that FOIA information.

(b) (6)

Classification: UNCLASSIFIED

Caveats: FOUO

Classification: UNCLASSIFIED

Caveats: FOUO

Classification: UNCLASSIFIED

Caveats: NONE

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** (b) (6) USAF ANG NGB/A6KS (b) (6)  
**Sent:** Wednesday, September 22, 2010 8:24 AM  
**To:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** RE: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)  
**Signed By:** (b) (6)

Jennifer, can you please resend the request.

-----Original Message-----

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
(b) (6)  
**Sent:** Tuesday, September 21, 2010 3:58 PM  
**To:** (b) (6) USAF ANG NGB/A6KS  
**Subject:** RE: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Any word on this one as well? Thanks -

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

**From:** (b) (6) USAF ANG NGB/A6CK  
(b) (6)  
**Sent:** Thursday, September 16, 2010 11:52 AM  
**To:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** RE: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)

I have made an appointment to meet with the FARM so she can help me complete this one ASAP

-----Original Message-----

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
(b) (6)  
**Sent:** Wednesday, September 15, 2010 3:30 PM  
**To:** (b) (6) USAF ANG NGB/A6CK  
**Subject:** RE: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Thanks - has A1 given a date on when they may have their search complete?

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: (b) (6) USAF ANG NGB/A6CK

(b) (6)

Sent: Wednesday, September 15, 2010 7:36 AM

To: Beharry, Ronnie T MSGT MIL NG NGB ARNG; (b) (6) NGB/CSCS

Cc: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG; (b) (6) . - NGB/A1E

Subject: FW: FOIA #2010-05422-F - Suspense: 14 Sep 10 (UNCLASSIFIED)

Importance: High

Got a response from A3, but nothing from A1.

Classification: UNCLASSIFIED

Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE

**NO RECORDS CERTIFICATION**

I hereby certify that after making a good faith effort and conducting a thorough search of our records using methods which may reasonably be expected to produce the information requested, the NGB/A3 directorate has no records pertaining to the Aaron Tax, July 28, 2010, Freedom of Information Act (FOIA) request for the following information:

- 1) The total number of National Guard personnel administratively separated from the National Guard from 1993 to present under 10 U.S.C. § 654,
- 2) The number of personnel investigated under 10 U.S.C. § 654 from fiscal year 1993 to present,
- 3) The number of personnel denied enlistment, appointment, or induction into the National Guard under 10 U.S.C. § 654 from 1993 to present,
- 4) The total number of National Guard personnel separated from the United States National Guard under DoD Instruction 6130.03, Medical Standards for Appointment, Enlistment, or Induction in the military services or any predecessor policies, or for any of the reasons listed in your letter from 1993 to present.
- 5) The total number of personnel separated each fiscal year, and
- 6) The number of personnel denied enlistment, appointment, or induction into the National Guard for reasons listed in your letter from 1993 to present.

This search included a physical and visual check of the records and files maintained by the NGB/A3 directorate. The search also encompassed a check of all directorate files.

**(b) (6)**

**(b) (6)**

NGB/A3E

13 Sep 10

\_\_\_\_\_  
Name  
Title/Office

\_\_\_\_\_  
Date

**Nikolaisen, Jennifer A Ms CIV NG NGB ARNG**

---

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Friday, September 10, 2010 2:11 PM  
**To:** (b) (6) MIL NG NGB ARNG  
**Subject:** RE: FOIA #2010-05422-F - Suspense: 10 Sep 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Okay no problem, we will go with a "no records found" from the J1 directorate.

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

**From:** (b) (6) MIL NG NGB ARNG  
**Sent:** Friday, September 10, 2010 1:58 PM  
**To:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** RE: FOIA #2010-05422-F - Suspense: 10 Sep 10 (UNCLASSIFIED)

Ma'am,

I know on (b) (6) side of the house, we searched and came up with nothing. During this time, he was (b) (6) ....and since then when he returned as a civilian, he has a whole new email account.

V/r,  
(b) (6)  
NGB J1 Military Personnel Policy and Compensation  
703-601-2682 - work  
(b) (6) - cell

-----o  
----- \<  
----- (\*)/(\*)  
[www.nationalguardcycling.com](http://www.nationalguardcycling.com)

"Temet Nosce"

-----Original Message-----

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Friday, September 10, 2010 1:56 PM  
**To:** (b) (6) MIL NG NGB ARNG  
**Cc:** (b) (6) MIL NG NGB ARNG  
**Subject:** FW: FOIA #2010-05422-F - Suspense: 10 Sep 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Thanks for your help on this. The two documents you attached are both the same (and are copies of the FOIA request that we are looking for records on), was there a different attachment you intended to send?

Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: (b) (6) MIL NG NGB ARNG  
Sent: Thursday, September 09, 2010 1:44 PM  
To: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Cc: (b) (6) MIL NG NGB ARNG  
Subject: FW: FOIA #2010-05422-F - Suspense: 10 Sep 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Ms Nikolaisen,

It's not much but I've attached what we found in regards to your request.

v/r,

(b) (6)  
NGB J1, Executive Officer  
Comm: 703-607-5509  
DSN: 327-5509  
(b) (6)

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Tuesday, September 07, 2010 8:43 AM  
To: (b) (6) MIL NG NGB ARNG  
Subject: FOIA #2010-05422-F - Suspense: 10 Sep 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good morning (b) (6) -

We have been advised by J3 that J1 may possibly have records responsive to the attached FOIA request (we have tasked the A1/A3 separately through their liaison).

Would you be able to have someone within your directorate conduct a search for any records responsive to the attached request and provide them to our office, along with any release recommendations? We have had this request for awhile going back and forth between offices and as we are way past the statutory time limit for response we ask for a search to be completed by Friday in order to for us to get a response out to the requestor.

Thanks in advance -

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: (b) (6) MIL NG NGB ARNG  
Sent: Thursday, September 02, 2010 12:02 PM  
To: (b) (6) MIL NG NGB ARNG  
Cc: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Subject: RE: RC-26 FOIA Info (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: FOUO

Hi (b) (6)

Can't find anything on the shared drive and in my paper files. ANG A3 and A1, along with the J1, may have something. Time frame should be from about Feb 07 to Jul 07.

(b) (6)  
NGB-J32-CDA  
DSN 327-1729  
Comm (703) 607-1729  
BB (b) (6)

-----Original Message-----

From: (b) (6) MIL NG NGB ARNG  
Sent: Thursday, September 02, 2010 11:54 AM  
To: (b) (6) MIL NG NGB ARNG  
Cc: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Subject: RC-26 FOIA Info (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: FOUO

(b) (6)

Any luck on that FOIA information.

(b) (6)

Classification: UNCLASSIFIED  
Caveats: FOUO

Classification: UNCLASSIFIED

Caveats: FOUO

Classification: UNCLASSIFIED  
Caveats: NONE

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** (b) (6) MIL NG NGB ARNG  
**Sent:** Monday, August 30, 2010 1:56 PM  
**To:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Cc:** (b) (6) NG NGB ARNG  
**Subject:** RE: FOIA Record Search #2010-05422-F - Suspense: 6 Jul 10 (UNCLASSIFIED)  
**Attachments:** No records certification FOIA 2010-05422-F.pdf

Classification: UNCLASSIFIED  
Caveats: NONE

Ms. Nikolaisen,

Attached is a No Records Certification for ADLAW.

(b) (6)  
SFC, Paralegal NCO  
Office of the Chief Counsel  
National Guard Bureau  
DSN 327.2760  
Commercial 703.607.2760  
(b) (6)

-----Original Message-----

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Monday, August 30, 2010 12:53 PM  
**To:** (b) (6) MIL NG NGB ARNG; (b) (6) NG NGB ARNG; (b) (6) MIL NG NGB ARNG  
**Cc:** (b) (6) MIL NG NGB ARNG; (b) (6) MIL NG NGB ARNG; (b) (6) MIL NG NGB ARNG  
**Subject:** FW: FOIA Record Search #2010-05422-F - Suspense: 6 Jul 10 (UNCLASSIFIED)  
**Importance:** High

Classification: UNCLASSIFIED  
Caveats: NONE

Good afternoon -

I e-mailed both Ad Law and Ops Law on 25 Jun and 9 Aug for a record search but have not yet received responses; however, I have received a small amount (5 files) from (b) (6). Please review the attached request (#2010-05422-F) and conduct a thorough search through both electronic and paper files, to include hard drives, e-mail accounts, .pst files, etc. to determine if any records exist within your respective sections.

If no records are found, please complete the attached "no records certification" and provide that to my office so I can have it for the case file. If records are found, please use the FOIA Exemptions worksheet to analyze whether any of the records located are exempt from release and provide your recommendations, along with the records, to my office (electronic is preferred) and complete the DD 2086 to account for time spent conducting a search as well as review of the records.

We had given the requestor an estimated completion date of 31 Aug on this so your prompt attention to this (3rd request for a record search) would be greatly appreciated.

Thanks in advance -

Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Friday, June 25, 2010 5:17 PM  
To: (b) (6) MIL NG NGB ARNG; (b) (6) USAF ANG NGB/A6; (b) (6)  
(b) (6) V NG NGB ARNG; (b) (6) ANG NGB/A3  
Cc: (b) (6) MIL NG NGB ARNG; (b) (6) MIL NG NGB ARNG  
Subject: FOIA Record Search #2010-05422-F - Suspense: 6 Jul 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good afternoon Sir -

My office has received the attached Freedom of Information Act (FOIA) request from a law firm asking for all records related to the "2007 review of the ANG RC-26 Program" including communications from the ANG RC discussing Title 32 pilots being incorrectly classified as AGRs and subsequent transfer to Title 32 full time NG in Counter Drug and allowing them to continue to receive Aviation Continuation Pay (full request #2010-05422-F is attached). I believe the offices most likely to have responsive records to this would be A3 and the NGB/JA (Ad Law/Ops Law & (b) (6) at the RC).

My office is requesting that a search for records (to include both paper and electronic (e-mail or other) classified and unclassified records) be conducted and if records are located that they are provided to my office (on CD-ROM if they are a large volume), along with the attached DD 2086 completed to account for actual time spent conducting a search.

If no records are found, please complete a no records certification (sample attached) including the name of the person that conducted the search, keywords used to conduct any electronic search, and locations searched and return to my office for our administrative case file.

In addition, if you know of other offices outside of A3 and JA that would be likely to have responsive records please let me know. As the FOIA does allow us only a very short time frame in which to respond to requests (20 working days), we ask that your search be concluded by 6 Jul to allow us time to review the records for appropriate release determination. If there are specific portions of the records that are exempt from release under one of the 9 FOIA Exemptions (attached) please provide your release recommendations.

Thank you in advance for your time and efforts in this request and please don't hesitate to contact me if there are any questions on this matter.

Jenny

Jennifer Nikolaisen, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195  
Fax (703) 607-3684

Office of Chief Counsel (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Ste 11300

Arlington VA 22202-3231

Visit our "One-Stop Information Shop" sites on GKO for helpful information:  
<https://gkoportal.ngb.army.mil/sites/NGB-SpecialStaff/JA/foia/default.aspx>  
<https://gkoportal.ngb.army.mil/sites/NGB-SpecialStaff/JA/privacy/default.aspx>

Classification: UNCLASSIFIED  
Caveats: NONE

Classification: UNCLASSIFIED  
Caveats: NONE

Classification: UNCLASSIFIED  
Caveats: NONE

**NO RECORDS CERTIFICATION**

I hereby certify that after making a good faith effort and conducting a thorough search of our records using methods which may reasonably be expected to produce the information requested, the Administrative and General Law Section has no records pertaining to Freedom of Information Act (FOIA) Request #2010-05422-F for the following information: thorough search through both electronic and paper files, to include hard drives, e-mail accounts, and .pst files.

This search included a physical and visual check of the records and files maintained by the Administrative and General Law Section. The search also encompassed a check of the JA Log Database

**(b) (6)**

Administrative and General Law

30 Aug 10  
Date

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** (b) (6) MIL NG NGB ARNG  
**Sent:** Monday, June 28, 2010 10:31 AM  
**To:** (b) (6) NG NGB ARNG; Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** RE: FOIA Record Search #2010-05422-F - Suspense: 6 Jul 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

(b) (6),

I don't have anything, but maybe (b) (6) does.

(b) (6)  
Paralegal NCO  
Office of the Chief Counsel  
National Guard Bureau  
DSN 327.2760  
Commercial 703.607.2760  
(b) (6)

-----Original Message-----

**From:** (b) (6) NG NGB ARNG  
**Sent:** Monday, June 28, 2010 9:18 AM  
**To:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Cc:** (b) (6) MIL NG NGB ARNG  
**Subject:** FW: FOIA Record Search #2010-05422-F - Suspense: 6 Jul 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Jen,  
I don't think that Adlaw has any records. I am asking (b) (6) to do a search.

(b) (6)

-----Original Message-----

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Friday, June 25, 2010 5:17 PM  
**To:** (b) (6) MIL NG NGB ARNG; (b) (6) USAF ANG NGB/A6; (b) (6) NG NGB ARNG; (b) (6) ANG NGB/A3  
**Cc:** (b) (6) MIL NG NGB ARNG; (b) (6) MIL NG NGB ARNG  
**Subject:** FOIA Record Search #2010-05422-F - Suspense: 6 Jul 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good afternoon Sir -

My office has received the attached Freedom of Information Act (FOIA) request from a law firm asking for all records related to the "2007 review of the ANG RC-26 Program" including communications from the ANG RC discussing Title 32 pilots being incorrectly classified as AGRs and subsequent transfer to Title 32 full time NG in Counter Drug and allowing them to continue to receive Aviation Continuation Pay (full request #2010-05422-F is attached). I

believe the offices most likely to have responsive records to this would be A3 and the NGB/JA (Ad Law/Ops Law & [REDACTED] at the RC).

My office is requesting that a search for records (to include both paper and electronic (e-mail or other) classified and unclassified records) be conducted and if records are located that they are provided to my office (on CD-ROM if they are a large volume), along with the attached DD 2086 completed to account for actual time spent conducting a search.

If no records are found, please complete a no records certification (sample attached) including the name of the person that conducted the search, keywords used to conduct any electronic search, and locations searched and return to my office for our administrative case file.

In addition, if you know of other offices outside of A3 and JA that would be likely to have responsive records please let me know. As the FOIA does allow us only a very short time frame in which to respond to requests (20 working days), we ask that your search be concluded by 6 Jul to allow us time to review the records for appropriate release determination. If there are specific portions of the records that are exempt from release under one of the 9 FOIA Exemptions (attached) please provide your release recommendations.

Thank you in advance for your time and efforts in this request and please don't hesitate to contact me if there are any questions on this matter.

Jenny

Jennifer Nikolaisen, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195  
Fax (703) 607-3684

Office of Chief Counsel (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Ste 11300  
Arlington VA 22202-3231

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<https://gkoportal.ngb.army.mil/sites/NGB-SpecialStaff/JA/privacy/default.aspx>

Classification: UNCLASSIFIED  
Caveats: NONE

Classification: UNCLASSIFIED  
Caveats: NONE

Classification: UNCLASSIFIED  
Caveats: NONE

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** NGB FOIA  
**Sent:** Friday, June 18, 2010 9:49 AM  
**To:** 'Sinder, Scott'; NGB FOIA  
**Cc:** (b) (6)  
**Subject:** RE: Acknowledgement of FOIA Request #2010-05422-F (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

We will go ahead and begin the processing of your request. You can request expedited processing using the procedures outlined in the Department of Defense Instruction 5400.7-R/AF Supplement; however, the request would be denied as you are not a media requestor seeking to disseminate urgent information to the public that would lose value if not quickly disseminated, nor does this information seem to affect the life/health/safety of an individual or provide loss of due process rights.

Jennifer Nikolaisen, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

**From:** Sinder, Scott (b) (6)  
**Sent:** Friday, June 18, 2010 9:02 AM  
**To:** NGB FOIA  
**Cc:** (b) (6); Sinder, Scott  
**Subject:** Re: Acknowledgement of FOIA Request #2010-05422-F (UNCLASSIFIED)

By this email, I hereby agree that Steptoe will pay up to \$2500 for all search, review, and reprographics fees associated with responding to our FOIA request which has been assigned case number 2010-05422-F.

Please let me know if we need to do anything else to finalize this arrangement. Please also let me know if there is any way to have the response to our request expedited.

Thank you.

Scott Sinder  
Partner  
Steptoe and Johnson, LLP

----- Original Message -----

**From:** NGB FOIA <[FOIA@ng.army.mil](mailto:FOIA@ng.army.mil)>  
**To:** Sinder, Scott  
**Sent:** Fri Jun 18 05:57:20 2010  
**Subject:** Acknowledgement of FOIA Request #2010-05422-F (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Mr. Scott A. Sinder  
Steptoe & Johnson, LLP  
(b) (6)

Dear Mr. Sinder:

This letter is to acknowledge receipt of your Freedom of Information Act request dated June 10, 2010 for records on any and all records concerning or relating to the 2007 review of the RC-26 program conducted by the Office of the Under Secretary of Defense for Military Personnel Policy (DMPP) and the Office of the Assistant Secretary of the Air Force for Manpower and Reserve Affairs (AFMRA). Specifically, all records that relate to the 2007 review of the RC-26 program or the determination that AGR pilots should continue to receive ACP payments. Your request was received in our office on June 15, 2010 and assigned case #2010-05422-F.

In your request, you indicated that you would like to know the fees assessed prior to receiving the actual records. As a requestor in the commercial fee category, you will be responsible for all search, review, and reprographics time based on rates outlined on the Department of Defense Form 2086, Record of Freedom of Information Processing Cost (<http://www.dtic.mil/whs/directives/infomgt/forms/eforms/dd2086.pdf>). The search is estimated to be conducted by a person in the professional fee category which is chargeable at a rate of \$44.00 per hour. The review time will also be at the professional rate of \$44.00 per hour and the estimate of time it will take to review the records will be dependent upon the outcome of the record search.

In order for us to begin processing your request by conducting a record search, we must have a fee agreement in place as the fees are chargeable whether or not any records are found in the conducting of the record search. Please respond to this letter indicating whether you are willing to pay fees to begin a search for records, and the maximum amount that you are willing to pay.

We have placed your request on hold pending this fee agreement and will begin processing the request once we hear from your office. If we do not hear from you by June 30, 2010 we will presume you are no longer interested in your request and will consider the request withdrawn; however, this does not preclude you from making a request in the future.

Your request is currently at position #60 in our queue for processing and, as a preliminary estimate only, presuming the volume of documents located is less than 100 pages in volume, we would anticipate completion of your request by August 31, 2010 if a fee agreement is received by June 30, 2010; however, would make every effort to provide the responsive records as soon as possible. If the volume of records produced by a record search is larger than 100 pages, the completion date may vary based on the volume of other requests awaiting a voluminous records review.

If you have questions regarding your request, please contact me at (703) 607-3195 or by e-mail, [FOIA@ng.army.mil](mailto:FOIA@ng.army.mil).

//SIGNED//

Jennifer Nikolaisen  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195  
Fax (703) 607-3684

Office of Chief Counsel (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Ste 11300  
Arlington VA 22202-3231

Classification: UNCLASSIFIED  
Caveats: NONE

Classification: UNCLASSIFIED  
Caveats: NONE

STEPTOE & JOHNSON LLP  
ATTORNEYS AT LAW

Scott A. Sinder

(b) (6)

(b) (6)

Washington, DC

Tel (b) (6)

Fax

steptoe.com

June 10, 2010

FOIA/PA Request

Case No: 2010-02420-F

Date Rcvd: 15 Jun 10

Date Due: 13 Jul 10

Rcvd By: UGB/JA-DIP JN

ANS

**VIA First Class Mail, Return Receipt**

NGB/JA-FOIA  
1411 Jefferson Davis Highway  
Suite 11300  
Arlington VA 22202

Re: **FOIA Request Regarding the 2007 Review of the Air National Guard's RC-26 Program**

To the Freedom of Information Officer:

Pursuant to the provisions of the Freedom of Information Act (FOIA), Title 5 of the United States Code, section 552, and its implementing regulations, we hereby apply to receive copies of any and all records concerning or relating to the 2007 review of the RC-26 Program conducted by the Office of the Under Secretary of Defense for Military Personnel Policy (DMPP) and the Office of the Assistant Secretary of the Air Force for Manpower and Reserve Affairs (AFMRA).

Communications from the Air National Guard Readiness Center (see highlighted excerpt in Attachment 1) indicated that in early 2007, the DMPP and the AFMRA conducted a review of the RC-26 program, and determined that all Title 32 Active Guard Reserve (AGR) pilots in the RC-26 program were incorrectly classified as AGRs, and were subsequently transferred to Title 32 Full-Time National Guard Duty – Counter Drug (FTNGD-CD) status. On July 20, 2007, the National Guard Bureau determined that the AGR pilots who were moved to FTNGD-CD status would continue to receive Aviation Continuation Pay (ACP) (see highlighted excerpt in Attachment 2).

We hereby request copies of any records, legal opinions, memorandum, emails, or otherwise that relate to the 2007 review of the RC-26 program, or the determination that AGR pilots should continue to receive ACP payments.

NGB/JA-FOIA  
June 9, 2010  
Page 2

I am willing and able to pay any applicable fees associated with this request. Please let me know the amount of any fees before sending the requested records. To the extent that all or part of this request is denied, please cite the specific exemptions to justify the refusal to release the information and advise me of any relevant appeal procedures available under the law.

Thank you for your assistance. I look forward to your timely response. If you have any questions or need any additional information, please call me at (b) (6).

Sincerely,

(b) (6)

Scott A. Sinder



**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** (b) (6) NG NGB ARNG  
**Sent:** Tuesday, December 14, 2010 2:11 PM  
**To:** (b) (6) MIL NG NGB ARNG  
**Cc:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** FW: FOIA File 2010-05639-F (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

(b) (6),

If you have time or are drilling soon could you look at (b) (6) response and give us your thoughts.

Thanks

(b) (6)

-----Original Message-----

**From:** (b) (6) (TXANG)  
**Sent:** Saturday, December 04, 2010 2:50 PM  
**To:** (b) (6) CIV NG NGB ARNG  
**Cc:** (b) (6) MIL NG NGB ARNG; Nikolaisen, Jennifer A Ms CIV NG NGB ARNG;  
(b) (6) TXARNG  
**Subject:** RE: FOIA File 2010-05639-F (UNCLASSIFIED)

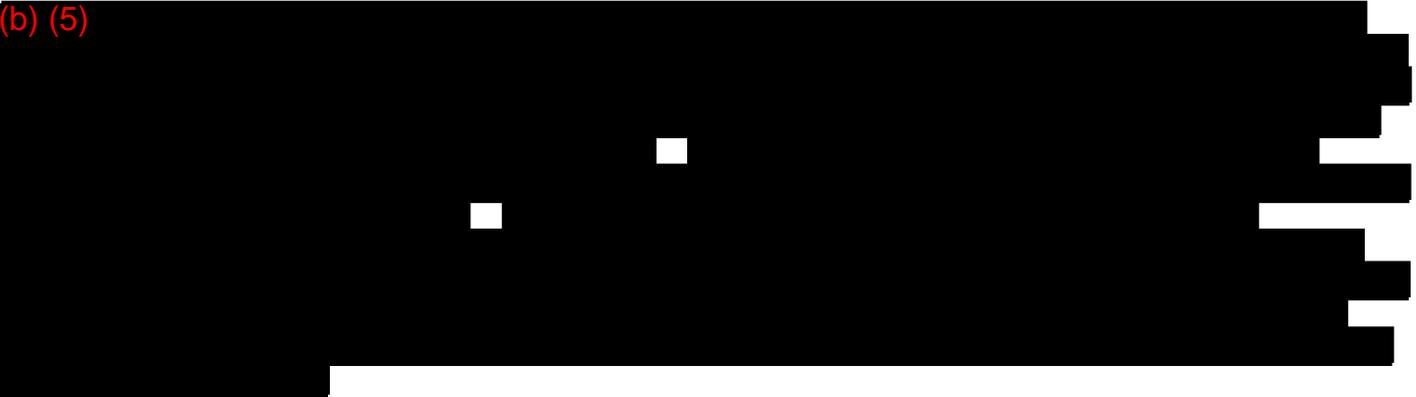
(b) (6),

I apologize for the late response, but I just received your email this weekend. I have not had access to my .mil email since my last drill weekend, which was October 16-17 (we did not have a UTA scheduled in November). For future communications, especially if it is time-sensitive, you can always reach me at my civilian email addresses, (b) (6) or (b) (6).

(b)(5), (b)(6)



(b) (5)



Regarding TSgt Duggan's specific request: there was only one CDI completed, which is the CDI conducted by (b) (6). (b) (6) was initially appointed to conduct a CDI, but retired before it was completed, and (b) (6) in the interim. Therefore, (b) (6) conducted the CDI (b) (6), and the matters which were to be investigated by (b) (6) were subsumed within (b) (6) investigation.

(b) (6) CDI report is not kept in a Federal system of records. It was conducted pursuant to the commander's inherent authority to investigate matters under his command, and was not conducted pursuant to any Federal statute, regulation or directive. The Commander, TXANG, Assistant Adjutant General-Air (a state employee appointed by the Governor) appointed (b) (6) (a member of the TXANG in T32 status) as IO to investigate certain matters and report back to him. Thus, there is no question that this CDI report is a state record and is not a Federal record.

(b) (5)

(b) (5)

(b) (5)

(b) (5)

Please contact me at the numbers or email addresses below if you would like to discuss this issue further. I hope this is of assistance.

v/r

(b) (6)

//signed//

(b) (6), TXANG  
Staff Judge Advocate

JFTX-AIR-JA

Commm: 512-782-6868

DSN: 954-6868

Fax: 512-782-5080

Cell: (b) (6)

(b) (6)

Civilian contact information:

Office: (b) (6)

Mobile: (b) (6)

(b) (6)

-----Original Message-----

From: (b) (6) CIV NG NGB ARNG

Sent: Wednesday, November 03, 2010 9:00 AM

To: (b) (6) (TXANG)

Cc: (b) (6) MIL NG NGB ARNG; Nikolaisen, Jennifer A Ms CIV NG NGB ARNG

Subject: FW: FOIA File 2010-05639-F (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

(b) (6) :

(b) (6)

(b) (5)

(b) (5)

(b) (5)

Respectfully,

(b) (6)

(b) (6)

Chief, Administrative Law  
National Guard Bureau  
1411 Jefferson Davis Highway  
Suite 11300  
Arlington, VA 22202  
(Office) 703-607-2703 DSN 327-2703  
(Cell) (b) (6)  
Classification: UNCLASSIFIED  
Caveats: NONE  
Classification: UNCLASSIFIED  
Caveats: NONE

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Classification: UNCLASSIFIED  
Caveats: FOUO

Classification: UNCLASSIFIED  
Caveats: NONE

Classification: UNCLASSIFIED  
Caveats: NONE

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** (b) (6) MIL NG NGB ARNG  
**Sent:** Wednesday, December 08, 2010 3:25 PM  
**To:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** Re: FOIA File 2010-05639-F (UNCLASSIFIED)

(b) (5)  
(b) (6)

----- Original Message -----

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**To:** (b) (6) MIL NG NGB ARNG  
**Sent:** Wed Dec 08 15:22:28 2010  
**Subject:** Re: FOIA File 2010-05639-F (UNCLASSIFIED)

(b) (5)

Sent from Blackberry of  
Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy

----- Original Message -----

**From:** (b) (6) MIL NG NGB ARNG  
**To:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Wed Dec 08 15:16:22 2010  
**Subject:** Re: FOIA File 2010-05639-F (UNCLASSIFIED)

Jenny,  
Have you brought (b) (6) into the loop?  
(b) (6)

----- Original Message -----

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**To:** (b) (6) NG NGB ARNG; (b) (6) CIV NG NGB ARNG; (b) (6) CIV USAF NGB ARNG  
**Cc:** (b) (6) MIL NG NGB ARNG; (b) (6) MIL NG NGB ARNG  
**Sent:** Wed Dec 08 15:10:34 2010  
**Subject:** Fw: FOIA File 2010-05639-F (UNCLASSIFIED)

Good afternoon -

Is there any existing legal opinion or written analysis that can be used to assist in determining when a record is federal v. State (or even a talking paper?) that you are aware of? Or would this be something more appropriate to come from the respective Air and Army Guard records managers?

As per the below, the TX Air JA (b) (5)

(b) (5)

Or maybe we could meet next week to discuss if you think that would help?

Sent from Blackberry of  
Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy

----- Original Message -----  
From: Brite, Elizabeth Y. CW2 TXARNG  
To: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Wed Dec 08 08:50:09 2010  
Subject: RE: FOIA File 2010-05639-F (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Jenny;

(b) (5)

. Thanks for all you assistance. I still do not know who my replacement will be and when I'll be leaving I've heard sometime between Feb and Jun 11?

Have a great day and I plan on logging in today for your presentations on DCO.

(b) (6)

-----Original Message-----  
From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Wednesday, December 08, 2010 6:54 AM  
To: (b) (6) TXARNG  
Subject: Re: FOIA File 2010-05639-F (UNCLASSIFIED)

I can get you the afrims disposition - its a 2 year record though. Will see if I have any other emails, not sure what ones I sent but will see what I can find when I get back in.

Sent from Blackberry of  
Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy

----- Original Message -----  
From: (b) (6) TXARNG  
To: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Mon Dec 06 10:29:01 2010  
Subject: RE: FOIA File 2010-05639-F (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Jenny;

Thank you for forwarding this to me. (b) (5)

[REDACTED]  
[REDACTED] My computer was re imaged and I lost all my saved emails prior to Nov 2010. I am working with G6 to try and recover them however it might be awhile. I also am researching AFRIMS to see what the disposition is on this type of record. Any assistance is greatly appreciated.

v/r;

(b) (6)

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Sunday, December 05, 2010 12:32 PM  
To: (b) (6) TXARNG; Beharry, Ronnie T MSGT MIL NG NGB ARNG  
Subject: FW: FOIA File 2010-05639-F (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

FYSA

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: (b) (6) (TXANG)  
Sent: Saturday, December 04, 2010 2:50 PM  
To: (b) (6) NG NGB ARNG  
Cc: (b) (6) MIL NG NGB ARNG; Nikolaisen, Jennifer A Ms CIV NG NGB ARNG;  
(b) (6) TXARNG  
Subject: RE: FOIA File 2010-05639-F (UNCLASSIFIED)

**Duplicate Material Removed**

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Wednesday, November 03, 2010 3:46 PM  
**To:** (b) (6) TXARNG  
**Subject:** FW: FOIA File 2010-05639-F (UNCLASSIFIED)  
**Attachments:** 2010-05639-F FOIA Request.pdf

Classification: UNCLASSIFIED  
Caveats: NONE

FYSA - I also asked TSgt Duggan to make a request under the TPIA to you for the records he is seeking (attached is his original request). If you do release them under TPIA please let me know so I can contact the requestor to see if he will withdraw his Federal request.

Thanks in advance -  
Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

**From:** (b) (6) NG NGB ARNG  
**Sent:** Wednesday, November 03, 2010 10:00 AM  
**To:** (b) (6) (TXANG)  
**Cc:** (b) (6) MIL NG NGB ARNG; Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** FW: FOIA File 2010-05639-F (UNCLASSIFIED)

**Duplicate Material Removed**

**Nikolaisen, Jennifer A Ms CIV NG NGB ARNG**

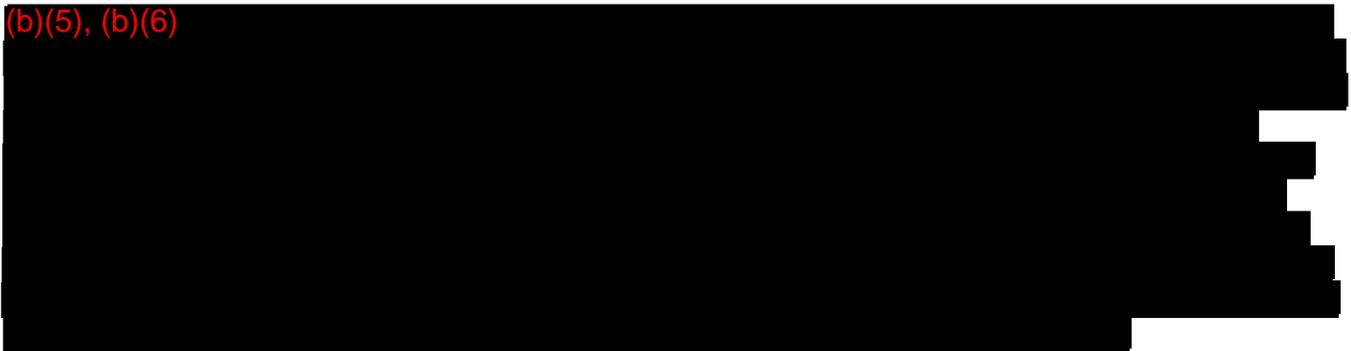
---

**From:** (b) (6) MIL NG NGB ARNG  
**Sent:** Saturday, October 30, 2010 1:51 PM  
**To:** (b) (6) NG NGB ARNG; Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** FOIA File 2010-05639-F (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: FOUO

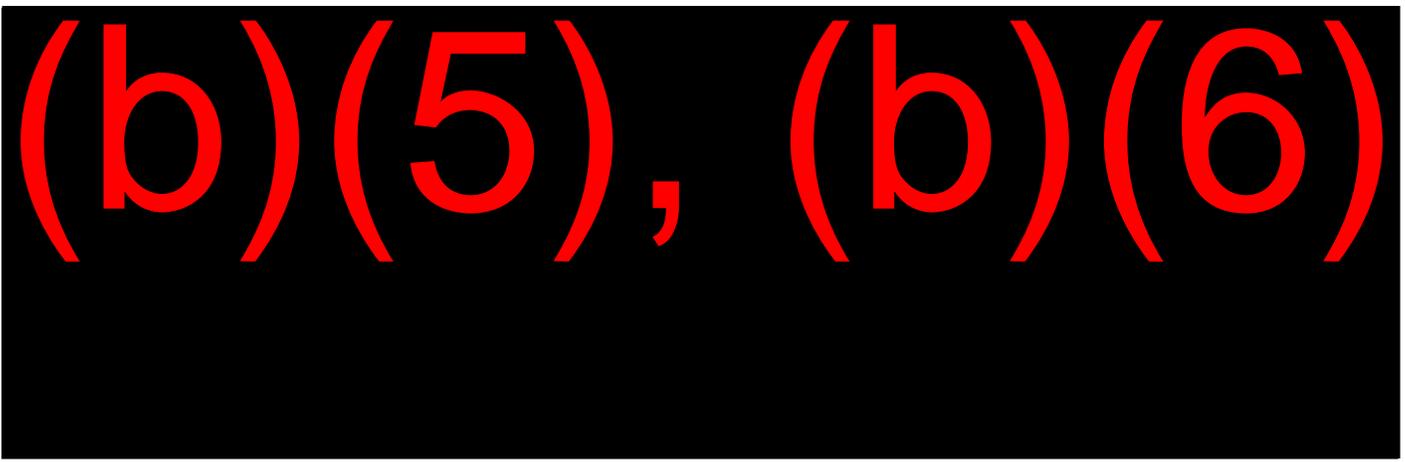
Sir:

(b)(5), (b)(6)



Regards,

(b) (6)  
, JA, DCARNG  
Legal Support Office



(b) (5), (b) (6)

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Classification: UNCLASSIFIED  
Caveats: FOUO

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Friday, October 22, 2010 9:37 AM  
**To:** (b) (6) NG NGB ARNG  
**Cc:** (b) (6) MIL NG NGB ARNG  
**Subject:** FW: FOIA Assistance #2010-05639-F Duggan (UNCLASSIFIED)  
**Attachments:** RE: FOIA Record Search Request Case #2010-05639-F Duggan (UNCLASSIFIED); 2010-05639-F.pdf; No Records Cert.pdf

Classification: UNCLASSIFIED  
Caveats: NONE

Good morning -

The last status I have is that (b) (6) finalized an info paper for you on 27 Sep and you were going to then contact the TX CoS on this request, could you provide me with any update? Our estimated completion date was 31 Aug so I'd like to get a new ECD updated in the AF FOIA Tracking System and a new status update put in there -

Thanks -  
Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Tuesday, September 07, 2010 11:44 AM  
**To:** (b) (6) NG NGB ARNG  
**Cc:** Beharry, Ronnie T MSGT MIL NG NGB ARNG; (b) (6) MIL NG NGB ARNG  
**Subject:** FW: FOIA Assistance #2010-05639-F Duggan (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good morning -

Could you provide us with an update on this request? (b) (5)

[REDACTED]

Thanks in advance -  
Jenny

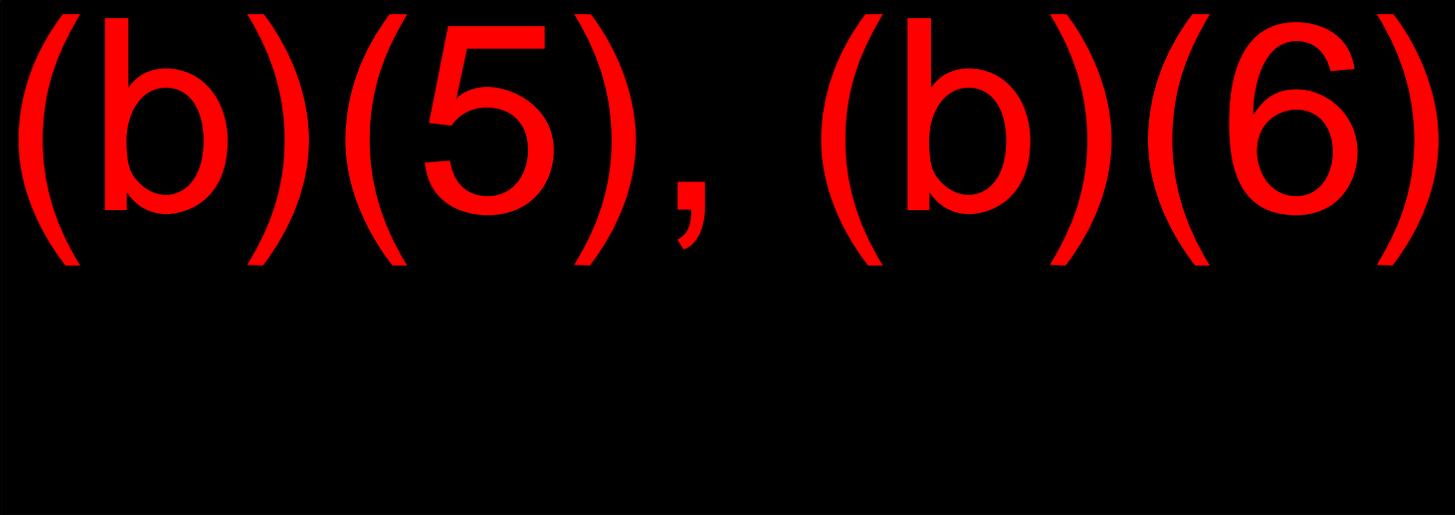
Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Thursday, August 19, 2010 3:13 PM  
To: (b) (6) CIV NG NGB ARNG  
Cc: Beharry, Ronnie T MSGT MIL NG NGB ARNG; (b) (6) MIL NG NGB ARNG  
Subject: FOIA Assistance #2010-05639-F Duggan (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good afternoon (b) (6) -



Let me know if you want to meet to discuss -- thanks in advance.

Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: (b) (6) MIL NG NGB ARNG  
Sent: Monday, August 16, 2010 9:36 AM  
To: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Subject: RE: FOIA Record Search Request Case #2010-05639-F Duggan (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Jenny,

Please try opening it now.

Thanks,

(b) (6)

(b) (6)  
(Office) 703-607-2751; DSN 327-2751  
(BB) (b) (6)

(Fax) 703-607-3682

(E-mail) (b) (6)

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Classification: UNCLASSIFIED

Caveats: NONE

ALCON:

(b) (5), (b) (6)

v/r

(b) (6)

-----Original Message-----

From: (b) (6) (TXANG)

Sent: Sunday, August 15, 2010 12:20 PM

To: (b) (6) MIL NG NGB ARNG

Subject: RE: FOIA Record Search Request Case #2010-05639-F Duggan  
(UNCLASSIFIED)

(b) (6),

(b) (5)

(b) (5)

I'm happy to discuss this with you further, and can be reached at (b) (6). Thanks again, and I look forward to talking with you.

//signed//

(b) (6) TXANG  
Staff Judge Advocate  
JFTX-AIR-JA

Comm: 512-782-6868

DSN: 954-6868

Fax: 512-782-5080

Cell: (b) (6)

(b) (6)  
(b) (6) @att.net

-----Original Message-----

From: (b) (6) MIL NG NGB ARNG  
Sent: Friday, August 13, 2010 4:14 PM  
To: (b) (6) (TXANG)  
Subject: FW: FOIA Record Search Request Case #2010-05639-F Duggan (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Sir,

I don't know if you remember me, but I believe we met at the ASOL in Denver.

(b) (5), (b) (6)

(b) (5)

(b) (5)

v/r

(b) (6)

Office of the Chief Counsel  
National Guard Bureau  
1411 Jefferson Davis Highway  
Suite 11300  
Arlington, VA 22202  
(Office) 703-607-2751; DSN 327-2751

(b) (6)

(Fax) 703-607-3682

(E-mail) (b) (6)

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-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Friday, August 13, 2010 1:50 PM  
To: (b) (6) MIL NG NGB ARNG  
Subject: FW: FOIA Record Search Request Case #2010-05639-F Duggan  
(UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

(b) (6) -

As we discussed, attached is the FOIA Request we received for a CDI with the TX NG. Following my e-mail to (b) (6) (TX JA) below, contacted (b) (6) who then contacted (b) (6). (b) (6) discussed with him (b) (5)

If they do not have responsive records, we need a "no records certification" signed by the office that would hold the records (in this case the TX JF HQ-Air/CC) rather than the JA Officer since the JA office is not the office that would be where the official record is maintained (according to both the System of Records Notice and the Air Force Records Disposition Schedule).

I hope that makes sense .. let me know if I can provide any additional information to assist in getting the records to our office to respond to this

request.

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Wednesday, August 04, 2010 8:40 AM  
To: (b) (6) TXARNG  
Cc: Beharry, Ronnie T MSGT MIL NG NGB ARNG  
Subject: FW: FOIA Record Search Request Case #2010-05639-F Duggan  
(UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

(b) (6) -

I thought it might be easier if I e-mail you the documents for the FOIA request that I was calling to see if you could assist us with. We initially tasked this FOIA request (#2010-05639-F) to the 147th and their FOIA Monitor informed us that (b) (6) was taking over the request (attached), and he in turn provided a "no records" response (attached).

(b) (5)

If no records exist (i.e. they have been destroyed or the investigation never took place), we would need a no records certification signed by the office that is responsible for maintaining the CDI (in this case it would be the office of General Nichols since the commander is responsible for maintaining the CDIs that he ordered, rather than the JA office) in order to issue a no records determination.

I am hoping you may be able to assist us in locating these records or directing us to a point of contact in the office that would have the records.

Thanks in advance -

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

(b) (6)

-----Original Message-----

From: (b) (6)  
Sent: Tuesday, August 03, 2010 1:09 PM  
To: Beharry, Ronnie T MSGT MIL NG NGB ARNG  
Cc: (b) (6) (TXANG); (b) (6) (TXANG); (b) (6)  
(b) (6) TXANG  
Subject: RE: FOIA Record Search Request Case #2010-05639-F Duggan

MSgt Beharry,

The FORN you referenced appears to be only applicable to Regular and Reserve Air Force units, as it makes no mention or reference to ANG units.

Commander-directed inquiries by Title 32 commanders for Title 32 members are not maintained in a federal system of records. In basic terms, members and commanders serving in a Title 32 status are serving in the state military forces only and are not serving in the federal military forces; therefore, those records are maintained by the state, not the federal government.

I believe we have been consistent on this issue for a very long time. This is the same principle contained in AFI 90-301 concerning state IG records.

If a member wishes access to state records they have to make a request to the appropriate release authority under the applicable state law.

(b) (6)

-----Original Message-----

From: Beharry, Ronnie T MSGT MIL NG NGB ARNG

(b) (6)

Sent: Tuesday, August 03, 2010 11:47 AM

To: (b) (6)

Subject: FW: FOIA Record Search Request Case #2010-05639-F Duggan

(b) (6)

Could we have you take a second look at the response to the above listed request? Your no records certification points to the status of the subject of the investigation for authority to categorize it as a state record, but it is established at the direction of the Commander and should be covered by a SORN and maintained at the installation where the Commander's office is located.

If I am not mistaken, the correct SORN is located here;  
<http://privacy.defense.gov/notices/usaf/F051AFJAK.shtml>

It is our sincere belief that this is not a state record and is subject to FOIA. We appreciate your time and attention and look forward to hearing from you.

Ronnie T. Beharry, MSgt, USAF  
National Guard Bureau  
Office of the Chief Counsel/NCOIC/OIP Specialist  
1411 Jefferson Davis Highway  
Arlington, VA 22202-3231  
Tel: (DSN) 327-2765 (COMM) 703-607-2765  
Fax: (DSN) 327-3682 (COMM) 703-607-3682

-----Original Message-----

From: (b) (6) [mailto:(b) (6)dewyleboeuf.com]

Sent: Wednesday, July 14, 2010 6:16 PM

To: Beharry, Ronnie T MSGT MIL NG NGB ARNG

Cc: (b) (6) TXANG; (b) (6) USAF ANG 147

RW/CDO; (b) (6) (TXANG)  
Subject: FOIA Record Search Request Case #2010-05639-F Duggan

MSgt Beharry:

Please see the attached correspondence regarding the above-referenced FOIA request.

(b) (6), TXANG  
HO TXANG Staff Judge Advocate  
(b) (6)

=====  
=  
=

Pursuant to U.S. Treasury Department Circular 230, unless we expressly state otherwise, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties or (ii) promoting, marketing or recommending to another party any matter(s) addressed herein.

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Attachment Classification: UNCLASSIFIED  
Attachment Caveats: FOUO

Classification: UNCLASSIFIED  
Caveats: NONE

Attachment Classification: UNCLASSIFIED  
Attachment Caveats: FOUO

Classification: UNCLASSIFIED  
Caveats: NONE

Attachment Classification: UNCLASSIFIED  
Attachment Caveats: FOUO

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Tuesday, October 12, 2010 9:07 AM  
**To:** (b) (6) USAF NGB ARNG  
**Cc:** (b) (6) NG NGB ARNG; (b) (6) MIL NG NGB ARNG  
**Subject:** TX FOIA Issues (UNCLASSIFIED)  
**Attachments:** Resp from TX ATAG JA.pdf; 2010-05639-F.pdf

Classification: UNCLASSIFIED  
Caveats: NONE

Good morning (b) (6) -

(b)(5), (b)(6)

A large rectangular area of the document is completely redacted with a solid black fill. The redaction covers approximately 80% of the page width and 30% of the page height.A rectangular area of the document is completely redacted with a solid black fill. The redaction covers approximately 80% of the page width and 10% of the page height.

(b)(5), (b)(6)

A rectangular area of the document is completely redacted with a solid black fill. The redaction covers approximately 80% of the page width and 10% of the page height.A rectangular area of the document is completely redacted with a solid black fill. The redaction covers approximately 80% of the page width and 10% of the page height.A rectangular area of the document is completely redacted with a solid black fill. The redaction covers approximately 80% of the page width and 10% of the page height.

This is our second oldest request, our first one being another TX record of a CDI, also of an individual in Title 32 status, that we were given audio files on and are awaiting transcription of those files.

Thanks -  
Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: Duggan, Kenneth (Scott) (b) (6)  
Sent: Friday, October 08, 2010 3:18 PM  
To: NGB FOIA  
Subject: RE: Clarification for FOIA Request (UNCLASSIFIED)

Jennifer,

All I can say is wow! That response was very impressive and down right fast. It seems as though your group really has a handle on the issues. I feel as though I have received personalized service and want to thank you.

I agree with you regarding the classification of these records as Federal vs. State. The Texas Air National Guard is a recognized Federal Institution and sub-component of the National Guard of the United States of America, it is formally a reserve component of the United States Air Force.

This information is Federal by all accounts. Further, I was referred to your office by the Texas Military Forces (acting) Inspector General, (b) (6). I will draft a request for the State of Texas as well and, if necessary, submit a copy of that request to you for your records.

I appreciate your diligence in assisting this cause.

Thanks

Kenneth S. Duggan

-----Original Message-----

From: NGB FOIA [mailto:FOIA@ng.army.mil]  
Sent: Friday, October 08, 2010 1:30 PM  
To: Duggan, Kenneth (Scott)  
Subject: RE: Clarification for FOIA Request (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good afternoon -

Unfortunately we are experiencing issues in receiving the records as there is a debate over whether these are Federal Records subject to FOIA or State-owned records subject to your State Records Act. My office believes these to be Federal Records as we receive requests for Command Directed Inquiries regularly that are conducted under the authority of Air Force Regulations; however, we are experiencing opposition from the record owner on this matter. I'm not able to give you any estimated completion date as we do not have any records from TX at this time but in the interim, you may wish to

file a request under your State Records Laws as well.

If you have any further questions on your request please don't hesitate to contact my office.

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
Freedom of Information Act/Privacy Officer  
National Guard Bureau  
(703) 607-3195, DSN 327-3195  
Fax (703) 607-3684

-----Original Message-----

From: Duggan, Kenneth (Scott) (b) (6)  
Sent: Friday, October 08, 2010 2:24 PM  
To: NGB FOIA  
Subject: FW: Clarification for FOIA Request (UNCLASSIFIED)

I submitted a request for some records some time ago. I was updated on several occasions about the status of the request but have not heard back from anyone with the documentation that was requested. Could you please look into this documentation and get back to me.

Thanks

Scott Duggan

---

From: Duggan, Kenneth (Scott)  
Sent: Thursday, June 24, 2010 2:08 PM  
To: 'foia@ng.army.mil'  
Subject: Clarification for FOIA Request (UNCLASSIFIED)

Jennifer,

My phone cellular number is (b) (6). You can reach me almost anytime. If I am not available when you call, please leave a brief message and I will return your phone call as quickly as I can.

(b) (6) initiated his investigation by order of Brigadier General

John Nichols, Commander of the Texas Air National Guard. This investigation was initiated late into the 4th Quarter of 2009.

(b) (6) investigation was also by order of Brigadier General John Nichols. His investigation was initiated during the 3rd Quarter of 2009.

Both investigations were in response to protected congressional communications I have made and continue to make with Senator Kay Bailey Hutchinson and Senator John Cornyn.

If you need specific dates as to when these investigations commenced, I can provide them, it will take a few moments to research the actual start dates however.

Let me know if you have any more questions, or if you still feel the need...please call me and I will give you as much information as I possibly can.

Sincerely,

TSgt Duggan, Kenneth Scott  
147th Security Forces Squadron  
Ellington Field Joint Reserve Base, Houston, TX

(a.k.a)

Scott Duggan

(b) (6)

(b) (6) (Office)

(b) (6) (Fax)

\*\*\*\*\* Named to Fortune's 1000 list for 2010 \*\*\*\*\* \*\*\*\*\* Ranked in Industry Week's "U.S. 500 Largest Manufacturing Companies" 2010 list. \*\*\*\*\* \*\*\*\*\* Named to Forbes's "The Most Trustworthy Companies" 2010 List \*\*\*\*\*  
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Classification: UNCLASSIFIED  
Caveats: NONE

\*\*\*\*\* Named to Fortune's 1000 list for 2010 \*\*\*\*\*

\*\*\*\*\* Ranked in Industry Week's "U.S. 500 Largest Manufacturing Companies" 2010 list. \*\*\*\*\*

\*\*\*\*\* Named to Forbes's "The Most Trustworthy Companies" 2010 List \*\*\*\*\*

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copies of\*  
\* the original message.\*

Classification: UNCLASSIFIED  
Caveats: NONE

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** (b) (6) MIL NG NGB ARNG  
**Sent:** Wednesday, September 22, 2010 12:32 PM  
**To:** (b) (6) NG NGB ARNG  
**Cc:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** FW: FOIA Assistance #2010-05639-F Duggan (UNCLASSIFIED)  
**Attachments:** RE: FOIA Record Search Request Case #2010-05639-F Duggan (UNCLASSIFIED); 2010-05639-F.pdf; No Records Cert.pdf

Classification: UNCLASSIFIED  
Caveats: NONE

Sir,

Jenny informed me that (b) (6) (b) (5)

v/r

(b) (6)  
(Office) 703-607-2751; DSN 327-2751  
(BB) (b) (6)  
(Fax) 703-607-3682  
(E-mail) (b) (6)

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-----Original Message-----

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Thursday, August 19, 2010 3:13 PM  
**To:** (b) (6) CIV NG NGB ARNG  
**Cc:** Beharry, Ronnie T MSGT MIL NG NGB ARNG; (b) (6) MIL NG NGB ARNG  
**Subject:** FOIA Assistance #2010-05639-F Duggan (UNCLASSIFIED)

**Duplicate Records Removed**

**From:** (b) (6) (TXANG)  
**To:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Cc:** (b) (6) MIL NG NGB ARNG; (b) (6) @att.net  
**Subject:** RE: FOIA Record Search Request Case #2010-05639-F Duggan (UNCLASSIFIED)  
**Date:** Sunday, August 15, 2010 11:19:40 AM

---

Ms. Nikolaisen,

I just received your voicemail and email regarding this issue, as it was sent to my .mil account that I generally only have access to during drill or periods of active duty. However, I did speak with (b) (6) in the past couple of weeks about this. (b) (6) said that she had authority that was contrary to my opinion that the requested records are not subject to FOIA. I have not yet received anything further from (b) (6).

(b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

Finally, I want to make it clear that as the Staff Judge Advocate for the Texas Air National Guard, I am the servicing judge advocate for FOIA/PA issues involving the Texas Air National Guard and its subordinate units. That means that if you or the attorneys working with you disagree with my opinion, you should discuss that disagreement with me. I am happy to discuss those areas of disagreement because I don't presume that my opinions are infallible or that there might be contrary authority that I'm unaware of. I would also be happy to engage the TAG's General Counsel in the discussion as well. However, you should not do what was done here, which was to seek a different opinion from the Texas TAG's General Counsel's Office without including me in that discussion or giving me notice of your intention to do so.

I look forward to discussing these issues with you further. You can contact me at (b) (6) @att.net, (b) (6) (office), or (b) (6) (cell). Thanks.

//signed//

(b) (6) TXANG  
Staff Judge Advocate  
JFTX-AIR-JA

Comm: 512-782-6868  
DSN: 954-6868  
Fax: 512-782-5080  
Cell: (b) (6)  
(b) (6) @att.net

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Tuesday, August 03, 2010 4:06 PM  
To: (b) (6) (TXANG)  
Cc: (b) (6) MIL NG NGB ARNG  
Subject: RE: FOIA Record Search Request Case #2010-05639-F Duggan  
(UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good afternoon (b) (6)

I just called and left a voicemail with regards to this request. It has been determined in the past that any record created while on Title 32 status is a Federal Record. It would only be a non-federal (state) record if the person that ordered the investigation and conducted the investigation were on state active duty and therefore the investigation was not done using Federal Funds/Resources. In this case an individual on Title 32 status was the person that conducted the investigation, as I understand it, and presumably it was conducted under the Air Force Instruction/guidance for conducting of CDIs thereby making it a Federal record subject to the Federal Records Act, FOIA, and the Privacy Act (System Notice F051 AF JA K).

If no Federal record exists (i.e. no investigation was conducted, or the record has since been destroyed), our office will need a no records certification (that is also admissible in court), by the commander that purportedly ordered the investigation of the individual confirming that no such record exists as the location that the record should reside is with the commander that requested the investigation be conducted.

If you have any questions on this please contact myself or (b) (6) Executive Officer, (b) (6) (cc'd).

Thanks in advance for your continued assistance on this request.

Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195  
BB: (b) (6)

-----Original Message-----

From: (b) (6)  
Sent: Tuesday, August 03, 2010 1:09 PM  
To: Beharry, Ronnie T MSGT MIL NG NGB ARNG  
Cc: (b) (6) (TXANG); (b) (6) (TXANG); (b) (6)  
(b) (6) TXANG  
Subject: RE: FOIA Record Search Request Case #2010-05639-F Duggan

MSgt Beharry,

The FORN you referenced appears to be only applicable to Regular and Reserve

Air Force units, as it makes no mention or reference to ANG units.

Commander-directed inquiries by Title 32 commanders for Title 32 members are not maintained in a federal system of records. In basic terms, members and commanders serving in a Title 32 status are serving in the state military forces only and are not serving in the federal military forces; therefore, those records are maintained by the state, not the federal government.

I believe we have been consistent on this issue for a very long time. This is the same principle contained in AFI 90-301 concerning state IG records.

If a member wishes access to state records they have to make a request to the appropriate release authority under the applicable state law.

(b) (6)

-----Original Message-----

From: Beharry, Ronnie T MSGT MIL NG NGB ARNG

(b) (6)

Sent: Tuesday, August 03, 2010 11:47 AM

To: (b) (6)@att.net

Subject: FW: FOIA Record Search Request Case #2010-05639-F Duggan

(b) (6)

Could we have you take a second look at the response to the above listed request? Your no records certification points to the status of the subject of the investigation for authority to categorize it as a state record, but it is established at the direction of the Commander and should be covered by a SORN and maintained at the installation where the Commander's office is located.

If I am not mistaken, the correct SORN is located here;  
<http://privacy.defense.gov/notices/usaf/F051AFJAK.shtml>

It is our sincere belief that this is not a state record and is subject to FOIA. We appreciate your time and attention and look forward to hearing from you.

Ronnie T. Beharry, MSgt, USAF  
National Guard Bureau  
Office of the Chief Counsel/NCOIC/OIP Specialist  
1411 Jefferson Davis Highway  
Arlington, VA 22202-3231  
Tel: (DSN) 327-2765 (COMM) 703-607-2765  
Fax: (DSN) 327-3682 (COMM) 703-607-3682

-----Original Message-----

From: (b) (6)@deweyleboeuf.com]

Sent: Wednesday, July 14, 2010 6:16 PM

To: Beharry, Ronnie T MSGT MIL NG NGB ARNG

Cc: (b) (6) TXANG; (b) (6) USAF ANG 147

RW/CDO; (b) (6) (TXANG)

Subject: FOIA Record Search Request Case #2010-05639-F Duggan

MSgt Beharry:

Please see the attached correspondence regarding the above-referenced FOIA request.

(b) (6) TXANG  
HQ TXANG Staff Judge Advocate  
713.287.2025

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Pursuant to U.S. Treasury Department Circular 230, unless we expressly state otherwise, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties or (ii) promoting, marketing or recommending to another party any matter(s) addressed herein.

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=====

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=

Classification: UNCLASSIFIED  
Caveats: NONE

**From:** [Nikolaisen, Jennifer A Ms CIV NG NGB ARNG](#)  
**To:** (b) (6) TXARNG  
**Cc:** [Beharry, Ronnie T MSGT MIL NG NGB ARNG](#)  
**Subject:** FW: FOIA Record Search Request Case #2010-05639-F Duggan (UNCLASSIFIED)  
**Date:** Wednesday, August 04, 2010 8:41:41 AM  
**Attachments:** [2010-05639-F.pdf](#)  
[No Records Cert.pdf](#)  
[FW: FOIA Record Search Request Case #2010-05639-F Duggan \(Suspense 23 Jul 2010\).msg](#)

---

Classification: UNCLASSIFIED  
Caveats: NONE

(b) (6) -

I thought it might be easier if I e-mail you the documents for the FOIA request that I was calling to see if you could assist us with. We initially tasked this FOIA request (#2010-05639-F) to the 147th and their FOIA Monitor informed us that (b) (6) was taking over the request (attached), and he in turn provided a "no records" response (attached).

(b) (5)  
The TX JFHQ FOIA Manager (b) (6) has also already told him to make a FOIA request to our office for this record, which he included in his FOIA request.

If no records exist (i.e. they have been destroyed or the investigation never took place), we would need a no records certification signed by the office that is responsible for maintaining the CDI (in this case it would be the office of General Nichols since the commander is responsible for maintaining the CDIs that he ordered, rather than the JA office) in order to issue a no records determination.

I am hoping you may be able to assist us in locating these records or directing us to a point of contact in the office that would have the records.

Thanks in advance -

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195  
BB: (b) (6)

-----Original Message-----

From: (b) (6) @att.net]  
Sent: Tuesday, August 03, 2010 1:09 PM  
To: Beharry, Ronnie T MSGT MIL NG NGB ARNG  
Cc: (b) (6) (TXANG); (b) (6) (TXANG); (b) (6) TXANG  
Subject: RE: FOIA Record Search Request Case #2010-05639-F Duggan

MSgt Beharry,

The FORN you referenced appears to be only applicable to Regular and Reserve Air Force units, as it makes no mention or reference to ANG units.

Commander-directed inquiries by Title 32 commanders for Title 32 members are not maintained in a federal system of records. In basic terms, members and commanders serving in a Title 32 status are serving in the state military forces only and are not serving in the federal military forces; therefore, those records are maintained by the state, not the federal government.

I believe we have been consistent on this issue for a very long time. This is the same principle contained in AFI 90-301 concerning state IG records.

If a member wishes access to state records they have to make a request to the appropriate release authority under the applicable state law.

(b) (6)

-----Original Message-----

From: Beharry, Ronnie T MSGT MIL NG NGB ARNG (b) (6)  
Sent: Tuesday, August 03, 2010 11:47 AM  
To: (b) (6) @att.net  
Subject: FW: FOIA Record Search Request Case #2010-05639-F Duggan

(b) (6)

Could we have you take a second look at the response to the above listed request? Your no records certification points to the status of the subject of the investigation for authority to categorize it as a state record, but it is established at the direction of the Commander and should be covered by a SORN and maintained at the installation where the Commander's office is located.

If I am not mistaken, the correct SORN is located here; <http://privacy.defense.gov/notices/usaf/F051AFJAK.shtml>

It is our sincere belief that this is not a state record and is subject to FOIA. We appreciate your time and attention and look forward to hearing from you.

Ronnie T. Beharry, MSgt, USAF  
National Guard Bureau  
Office of the Chief Counsel/NCOIC/OIP Specialist  
1411 Jefferson Davis Highway  
Arlington, VA 22202-3231  
Tel: (DSN) 327-2765 (COMM) 703-607-2765  
Fax: (DSN) 327-3682 (COMM) 703-607-3682

-----Original Message-----

From: (b) (6) @deweyleboeuf.com]  
Sent: Wednesday, July 14, 2010 6:16 PM  
To: Beharry, Ronnie T MSGT MIL NG NGB ARNG  
Cc: (b) (6) TXANG; (b) (6) USAF ANG 147 RW/CDO; (b) (6) (TXANG)  
Subject: FOIA Record Search Request Case #2010-05639-F Duggan

MSgt Beharry:

Please see the attached correspondence regarding the above-referenced FOIA request.

(b) (6) TXANG  
HQ TXANG Staff Judge Advocate  
713.287.2025

=====

=  
=

Pursuant to U.S. Treasury Department Circular 230, unless we expressly state otherwise, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties or (ii) promoting, marketing or recommending to another party any matter(s) addressed herein.

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=

Attachment Classification: UNCLASSIFIED  
Attachment Caveats: FOUO

Classification: UNCLASSIFIED  
Caveats: NONE

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** Beharry, Ronnie T MSGT MIL NG NGB ARNG  
**Sent:** Tuesday, August 03, 2010 12:44 PM  
**To:** (b) (6)  
**Cc:** (b) (6) TXANG; (b) (6) USAF ANG 147 RW/CDO;  
(b) (6) (TXANG); Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Subject:** RE: FOIA Record Search Request Case #2010-05639-F Duggan

(b) (6),

Could we have you take a second look at the response to the above listed request? Your no records certification points to the status of the subject of the investigation for authority to categorize it as a state record, but it is established at the direction of the Commander and should be covered by a SORN and maintained at the installation where the Commander's office is located.

If I am not mistaken, the correct SORN is located here;  
<http://privacy.defense.gov/notices/usaf/F051AFJAK.shtml>

It is our sincere belief that this is not a state record and is subject to FOIA. We appreciate your time and attention and look forward to hearing from you.

Ronnie T. Beharry, MSgt, USAF  
National Guard Bureau  
Office of the Chief Counsel/NCOIC/OIP Specialist  
1411 Jefferson Davis Highway  
Arlington, VA 22202-3231  
Tel: (DSN) 327-2765 (COMM) 703-607-2765  
Fax: (DSN) 327-3682 (COMM) 703-607-3682

-----Original Message-----

**From:** (b) (6) [dewyleboeuf.com]  
**Sent:** Wednesday, July 14, 2010 6:16 PM  
**To:** Beharry, Ronnie T MSGT MIL NG NGB ARNG  
**Cc:** (b) (6) TXANG; (b) (6) USAF ANG 147 RW/CDO; (b) (6)  
(TXANG)  
**Subject:** FOIA Record Search Request Case #2010-05639-F Duggan

MSgt Beharry:

Please see the attached correspondence regarding the above-referenced FOIA request.

(b) (6), TXANG  
HQ TXANG Staff Judge Advocate  
713.287.2025

=====  
Pursuant to U.S. Treasury Department Circular 230, unless we expressly state otherwise, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties or (ii) promoting, marketing or recommending to another party any matter(s) addressed herein.

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=====

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** (b) (6) [redacted]@deweyleboeuf.com]  
**Sent:** Wednesday, July 14, 2010 6:16 PM  
**To:** Beharry, Ronnie T MSGT MIL NG NGB ARNG  
**Cc:** (b) (6) [redacted] TXANG; (b) (6) [redacted] USAF ANG 147 RW/CDO;  
(b) (6) [redacted] (TXANG)  
**Subject:** FOIA Record Search Request Case #2010-05639-F Duggan  
**Attachments:** FOIA.pdf

MSgt Beharry:

Please see the attached correspondence regarding the above-referenced FOIA request.

(b) (6) [redacted], TXANG  
HQ TXANG Staff Judge Advocate  
713.287.2025

=====  
Pursuant to U.S. Treasury Department Circular 230, unless we expressly state otherwise, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties or (ii) promoting, marketing or recommending to another party any matter(s) addressed herein.

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=====



**DEPARTMENT OF THE AIR FORCE**  
HEADQUARTERS TEXAS AIR NATIONAL GUARD

14 July 2010

MEMORANDUM FOR NGB OFFICE OF THE CHIEF COUNSEL (MSGT BEHARRY)

FROM: JFTX-AIR-JA

SUBJECT: FOIA Record Search Request Case #2010-05639-F Duggan

1. We received the Freedom of Information Act (FOIA) request described above. The request seeks two reports of investigation involving a Texas Air National Guard member in Title 32 status. All records of commander-directed investigations involving members in Title 32 (i.e., state) status are maintained as state records and are not maintained in a federal system of records. State records are subject to state law, and are not subject to the FOIA or PA.
2. After making a good faith effort and conducting a thorough search of our records using methods which may reasonably be expected to produce the information requested, the Texas Air National Guard has no records responsive to FOIA Request #2010-05639-F Duggan which were made or received by an agency of the United States Government under Federal law in connection with the transaction of public business and in Department of Defense possession and control at the time the FOIA request was made.
3. My point of contact for this matter is (b) (6), DSN 954-5475.

(b) (6)

(b) (6) Colonel, TXANG  
Staff Judge Advocate

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

**From:** (b) (6) USAF ANG 147 RW/CDO (b) (6)  
**Sent:** Wednesday, July 14, 2010 1:15 PM  
**To:** NGB FOIA  
**Cc:** (b) (6) USAF ANG 147 RW/CC; (b) (6) USAF ANG 147 CF/CC; (b) (6) USAF ANG 147 RW/JA; 147 RW/JUDGE ADVOCATE; (b) (6) USAF ANG 147 CF/SCX  
**Subject:** FW: FOIA Record Search Request Case #2010-05639-F Duggan (Suspense: 23 Jul 2010)  
**Signed By:** (b) (6)

Texas State FOIA office has taken charge of this request.  
Thank you,

//SIGNED//

(b) (6) TXANG  
Functional Information Resource Manager  
FOIA/Privacy Act Manager  
147th Communications Flight  
14657 Sneider St.  
Houston, TX 77034-5586  
e-mail (b) (6)

-----Original Message-----

**From:** (b) (6) TXANG (b) (6)  
**Sent:** Wednesday, July 14, 2010 12:11 PM  
**To:** (b) (6) USAF ANG 147 RW/CDO  
**Cc:** (b) (6) USAF ANG 147 RW/CC; (b) (6) USAF ANG 147 RW/JA; 147 RW/JUDGE ADVOCATE; (b) (6) USAF ANG 147 CF/CC; (b) (6) USAF ANG 147 CF/SCX  
**Subject:** RE: FOIA Record Search Request Case #2010-05639-F Duggan (Suspense: 23 Jul 2010)

Thanks. We'll reply to this request. (b) (6) has taken the point on this one.

V/r

(b) (6)

(b) (6) Capt, TXANG  
Director of Personnel  
DSN 954-5475; COMM 512-782-5475

-----Original Message-----

**From:** (b) (6) USAF ANG 147 RW/CDO (b) (6)  
**Sent:** Tuesday, July 13, 2010 4:01 PM  
**To:** (b) (6) USAF ANG 147 RW/CC; (b) (6) USAF ANG 147 RW/JA; 147 RW/JUDGE ADVOCATE; (b) (6) USAF ANG 147 CF/CC; (b) (6) USAF ANG 147 CF/SCX; (b) (6) TXANG  
**Subject:** FOIA Record Search Request Case #2010-05639-F Duggan (Suspense: 23 Jul 2010)

Received today FOIA Record Search, Please review and return with guidance to me by COB 14 July 13, 2010 so that I can respond.  
Thank you for your support in this matter, v/r

//SIGNED//

(b) (6) MSgt, TXANG  
Functional Information Resource Manager  
FOIA/Privacy Act Manager  
147th Communications Flight  
14657 Sneider St.  
Houston, TX 77034-5586

(b) (6)

-----Original Message-----

From: Beharry, Ronnie T MSGT MIL NG NGB ARNG

(b) (6)

Sent: Saturday, July 10, 2010 12:42 PM

To: (b) (6) USAF ANG 147 RW/CDO

Subject: FOIA Record Search Request Case #2010-05639-F Duggan (Suspense: 23 Jul 2010)

The attached is a Freedom of Information Act (FOIA) request our office received regarding 2 CDI's ordered by Brigadier General John Nichols completed by (b) (6) and (b) (6) in 2009. Please acknowledge receipt of this request.

Please conduct a search for records in response to this request and provide the responsive records along with a recommendation on whether any of the records are exempt under FOIA.

Any records being recommended for withholding must be clearly marked (or highlighted if only portions of documents are recommended for withholding). However, the entire record must be provided in order to make a final release determination. The recommendation for withholding must clearly outline the foreseeable harm that would be caused by the release of the requested information.

If no records exist, please complete the "No Records" certification.

As the FOIA has strict timelines for us to respond to requests, please have your final response including the recommendations for release (redacted copy of records), and DD2086 to me by 23 Jul 2010. Records may be e-mailed to [FOIA@ng.army.mil](mailto:FOIA@ng.army.mil) or if they are too large to e-mail please contact me so I can give you access to a secure server to upload the records to.

Please do not respond to the requestor or contact the requestor in any way, if any clarification is needed please contact me directly.

If you have any questions on this please don't hesitate to call/e-mail. You can also find helpful information at our GKO Site:  
<https://gkoportal.ngb.army.mil/sites/NGB-SpecialStaff/JA/foia/default.aspx>

that will assist you in processing the request. If you don't have access you can register your CAC at <https://gkoportal.ngb.army.mil/>.

Ronnie T. Beharry, MSgt, USAF  
National Guard Bureau  
Office of the Chief Counsel/NCOIC/OIP Specialist  
1411 Jefferson Davis Highway  
Arlington, VA 22202-3231  
Tel: (DSN) 327-2765 (COMM) 703-607-2765  
Fax: (DSN) 327-3682 (COMM) 703-607-3682

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

---

**From:** NGB FOIA  
**Sent:** Thursday, July 08, 2010 10:52 AM  
**To:** (b) (6)  
**Subject:** Acknowledgement of FOIA Request #2010-056339-F (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Mr. Kenneth Duggan

(b) (6)

Dear Mr. Duggan:

This letter is to acknowledge receipt of your Freedom of Information Act request dated June 23, 2010 for records on 2 Commander Directed Investigations. Specifically, an investigation conducted by (b) (6) and an investigation conducted by (b) (6), both initiated in response to a Congressional inquiry you made and ordered by Brigadier General John Nichols, Commander of the Texas Air National Guard. Your request has been assigned case #2010-05639-F

Your request is currently at position #46 in our queue for processing. As a preliminary estimate only, we anticipate completion of your request by September 30, 2010; however, will make every effort to provide the responsive records as soon as possible. All communications concerning this request should be identified with the above reference number and addressed to the address shown below.

Please be aware that the FOIA does allow for the collection of fees for processing requests. As a requestor in the "all other" fee category you will be responsible for all search time in excess of 2 hours and all reprographics in excess of 100 pages. If the total fees will exceed \$25.00 we will contact you to obtain a fee agreement prior to further processing.

If you have questions regarding your request, please contact me at (703) 607-3195 or by e-mail, [FOIA@ng.army.mil](mailto:FOIA@ng.army.mil).

//SIGNED//

Jennifer Nikolaisen  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195  
Fax (703) 607-3684

Office of Chief Counsel (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Ste 11300  
Arlington VA 22202-3231

Classification: UNCLASSIFIED  
Caveats: NONE

Freedom of Information Act of 1974

FOIA/PA Request

Case No: 2010-03039-F

Date Rcvd: 24 Jun 10

Date Due: 25 Jun 10

Rcvd By: NBBJA-OIP JW

Memorandum to: General Craig McKinley

From: TSgt Kenneth Scott Duggan

Date: 06/23/2010

Reference: Freedom of Information Act

I am formally requesting full disclosure of two Command Directed Investigations that were conducted as a result of congressional communications I made to United States Senator Kay Bailey Hutchinson and United States Senator John Cornyn in 2009.

When the first CDI was conducted by (b) (6) (now retired), I was assured by the Texas Adjutant General's Department that (b) (6) was capable of rendering an unbiased and professional opinion/recommendation based on his investigation. I spoke with (b) (6) upon completion of his investigation. During this conversation, (b) (6) assured me that a recommendation would be submitted based on his findings during the investigation, though he was not a liberty to discuss those findings until they had been received by General Nichols. Unfortunately, the Texas Military Forces has decided to deem (b) (6) conclusions or recommendations as incomplete or insufficient. This determination came even after the assurance was given about (b) (6) unbiased professionalism.

The Second CDI was conducted by (b) (6). Due to the conversation I had with (b) (6) prior to his retirement, there was never a clear answer on why a second CDI was launched.

Please see the attached letter dated May 3, 2010 from the Adjutant General's Department. At the direction of the Major General Mayorga's Department, today, I am requesting from you, full disclosure of both (b) (6) and (b) (6) reports issued to General Nichols regarding allegations I made to the Senators.

(b) (6)



REPLY TO  
ATTENTION OF

**TEXAS MILITARY FORCES**

Joint Force Headquarters  
Adjutant General's Department  
Post Office Box 5218  
Austin, Texas 78763-5218  
512-782-5001

May 3, 2009

J5, Policy & FOIA Branch

Kenneth S. Duggan

(b) (6)

Dear Mr Duggan,

This letter is to acknowledge receipt of your Privacy Act request pertaining to your military records signed on 21 January 2010 on SF 180.

We have done a thorough search and have not located any personnel or medical records. We recommend that you go to <http://www.archives.gov/st-louis/military-personnel/> for information on making a request for records (medical and personnel). To request a CDI report you will need to make a FOIA request through National Guard Bureau.

As of March 30, 2009 all Air National Guard FOIA request will be process by NGB/IA-FOIA Office. Requesters of Air National Guard documents are encouraged to make requests electronically through the AF FOIA Website (<https://www.efoia.af.mil/palMain.aspx>). You may also mail, e-mail or fax your FOIA request to ANG/FOIA, 1411 Jefferson Davis Highway, Suite 11300, Arlington, Virginia 22202-3231; Email address is: [FOIA@ng.army.mil](mailto:FOIA@ng.army.mil) or Fax (703) 607-3684.

If you have any questions, please contact the undersigned at (512) 782-5443 or via email at [TXFOIA@tx.ngb.army.mil](mailto:TXFOIA@tx.ngb.army.mil).

Sincerely,

Elizabeth Y. Brite  
Chief Warrant Officer  
Texas Army National Guard  
J5 Policy/FOIA Branch

To: General Craig McKinley  
Chief, National Guard Bureau

From: TSgt Kenneth Scott Duggan

Date: 06/23/2010

Subject: Freedom of Information Act

Fax # 1-703-607-3684

Total pages including the cover:

7



From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Thursday, December 16, 2010 10:40 AM  
To: (b) (6) CPT MIL NG NGB ARNG  
Cc: (b) (6) LTC MIL NG NGB ARNG  
Subject: FW: Original Records for FOIA #FA-10-0123 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good morning (b) (6) -

Were you able to see if you have electronic copies of these records?  
Unfortunately when I tried to scan/email them to myself in several separate files  
it said the file was too large and they never came through - just trying to save  
a bunch of additional work in rescanning them into multiple files if at all  
possible.

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

From: Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
Sent: Wednesday, December 15, 2010 12:13 PM  
To: (b) (6) CPT MIL NG NGB ARNG  
Subject: Original Records for FOIA #FA-10-0123 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good afternoon -

Attached are the comments you received from the submitter, but in a review of our  
file I did not see where we have originals of all of the documents  
electronically. I scanned them all in but then it won't let me email them since  
the file is so large, do you already have them electronically to avoid us re-  
doing it? Thanks.

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy  
NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

Office of Chief Counsel (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Ste 11300  
Arlington VA 22202-3231

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<https://gkoportal.ngb.army.mil/sites/NGB-SpecialStaff/JA/foia/default.aspx>  
<https://gkoportal.ngb.army.mil/sites/NGB-SpecialStaff/JA/privacy/default.aspx>

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** Beharry, Ronnie T MSGT MIL NG NGB ARNG  
**Sent:** Friday, November 05, 2010 12:55 PM  
**To:** (b) (6) CPT MIL NG NGB ARNG  
**Subject:** FW: FOIA #FA-10-0123 - Suspense: 19 Aug 10 (UNCLASSIFIED)  
**Attachments:** Response Letter.pdf

(b) (6),

I am finishing this request for Ms. Nikolaisen. Thank you very much for getting the submitter's notice to us along with the requested documents, but I need to know if you concur with the objections raised by Systems Plus, Inc. in their response (attached). After I have that, I should be able to finish this request.

Thank you very much for your time and attention, have a good day and upcoming weekend!

Ronnie T. Beharry, MSgt, USAF  
National Guard Bureau  
Office of the Chief Counsel/OIP Specialist  
1411 Jefferson Davis Highway  
Arlington, VA 22202-3231  
Tel: (DSN) 327-2765 (COMM) 703-607-2765  
Fax: (DSN) 327-3682 (COMM) 703-607-3682

-----Original Message-----

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Friday, September 10, 2010 1:53 PM  
**To:** (b) (6) R LTC MIL NG NGB ARNG  
**Cc:** (b) (6) COL MIL NG NGB ARNG  
**Subject:** FW: FOIA #FA-10-0123 - Suspense: 19 Aug 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good afternoon -

Please advise the status of this outstanding FOIA request. Thanks in advance -

Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

**From:** Nikolaisen, Jennifer A Ms CIV NG NGB ARNG  
**Sent:** Thursday, July 29, 2010 10:46 AM  
**To:** (b) (6) LTC MIL NG NGB ARNG  
**Cc:** (b) (6) COL MIL NG NGB ARNG  
**Subject:** FOIA #FA-10-0123 - Suspense: 19 Aug 10 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good afternoon -

I believe you indicated in the past that all contracts W9133L are in your branch so I think this one is yours, if not please let me know. I have set a suspense of 19 Aug which I believe should allow time for gathering of records and conducting the submitter's notice with a 10 day response from the submitter.

Thanks in advance -  
Jenny

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195  
Fax (703) 607-3684

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<https://gkoportal.ngb.army.mil/sites/NGB-SpecialStaff/JA/privacy/default.aspx>

Classification: UNCLASSIFIED  
Caveats: NONE

Classification: UNCLASSIFIED  
Caveats: NONE

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** Laura Wotycha (b) (6)  
**Sent:** Friday, October 01, 2010 7:46 PM  
**To:** NGB FOIA  
**Subject:** RE: Acknowledgement of FOIA Request #FA-10-0123 (UNCLASSIFIED)

Thank you so much for the update, Ms. Nikolaisen.

Cheers,  
Laura

Laura Wotycha  
Contracts Manager  
VISTA Technology Services, Inc.  
(b) (6)

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**From:** NGB FOIA [FOIA@ng.army.mil]  
**Sent:** Friday, October 01, 2010 5:05 PM  
**To:** Laura Wotycha  
**Subject:** RE: Acknowledgement of FOIA Request #FA-10-0123 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Good afternoon -

Your request is currently at position #11 in our queue for processing and we are awaiting a response from the third party submitter of non-government information, as we are required to consult with them under Executive Order 12,600. I would estimate a response from them, as well as our agency review and analysis time of their comments, to be completed by the end of October.

Jennifer Nikolaisen, GS-14, CIPP/G  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195, DSN 327-3195

-----Original Message-----

**From:** Laura Wotycha (b) (6)  
**Sent:** Friday, October 01, 2010 10:10 AM  
**To:** NGB FOIA  
**Subject:** RE: Acknowledgement of FOIA Request #FA-10-0123 (UNCLASSIFIED)

Hello Ms. Nikolaisen,

Will you please let me know the status of VISTA Technology Services, Inc.'s FOIA Request #FA-10-0123.

Many thanks,

Laura Wotycha  
Contracts Manager  
VISTA Technology Services, Inc.

(b) (6)

-----Original Message-----

From: NGB FOIA [<mailto:FOIA@ng.army.mil>]  
Sent: Thursday, July 29, 2010 10:42 AM  
To: Laura Wotycha  
Subject: Acknowledgement of FOIA Request #FA-10-0123 (UNCLASSIFIED)

Classification: UNCLASSIFIED  
Caveats: NONE

Ms. Laura A. Wotycha  
VISTA Technology Services, Inc.

(b) (6)

Dear Ms. Wotycha:

This letter is to acknowledge receipt of your Freedom of Information Act request dated July 15, 2010 for records on

- 1) System Plus, Inc.'s Technical, Key Personnel, and Past Performance Volume in response to Solicitation #W9133L-10-T-0012,
- 2) System Plus, Inc's Cost Volume in response to Solicitation #W9133L-10-T-0012, and
- 3) The contract awarded as a result of Solicitation #W9133L-10-T-0012.

Your request has been assigned case #FA-10-0123.

Your request is currently at position #55 in our queue for processing. As a preliminary estimate only, we anticipate completion of your request by September 30, 2010; however, will make every effort to provide the responsive records as soon as possible. All communications concerning this request should be identified with the above reference number and addressed to the address shown below.

If you have questions regarding your request, please contact me at (703) 607-3195 or by e-mail, [FOIA@ng.army.mil](mailto:FOIA@ng.army.mil).

//SIGNED//

Jennifer Nikolaisen  
Chief, Office of Information and Privacy NGB FOIA/Privacy Officer  
(703) 607-3195  
Fax (703) 607-3684

Office of Chief Counsel (NGB/JA-OIP)  
1411 Jefferson Davis Highway, Ste 11300  
Arlington VA 22202-3231

Classification: UNCLASSIFIED  
Caveats: NONE

Classification: UNCLASSIFIED

**Beharry, Ronnie T Mr CIV NG NGB ARNG**

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**From:** Laura Wotycha (b) (6)  
**Sent:** Thursday, July 15, 2010 5:06 PM  
**To:** NGB FOIA  
**Cc:** (b) (6)  
**Subject:** FOIA Request  
**Attachments:** VISTAtsi FOIA request.pdf

July 15, 2010

Army National Guard FOIA  
1411 Jefferson Davis Highway  
Suite 11300  
Arlington VA 22202

Dear FOIA Privacy Officer:

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

I request that a copy of the following documents be provided to me:

- 1) System Plus, Inc.'s Technical, Key Personnel, and Past Performance Volume in response to Solicitation No. W9133L-10-T-0012.
- 2) System Plus, Inc.'s Cost Volume in response to Solicitation No. W9133L-10-T-0012.
- 3) Contract awarded as a result of Solicitation No. W9133L-10-T-0012.

In order to help to determine my status to assess fees, you should know that I am affiliated with a private corporation and seeking information for use in the company's business.

The maximum dollar amount I am willing to pay for this request is \$ 300.00. Please notify me if the fees will exceed \$25.00 or the maximum dollar amount I entered. If the fees are less than \$25.00, I agree to pay without additional notification.

Please contact me at (b) (6) if you have any questions.

Thank you for your consideration of this request.

Sincerely,

Laura A. Wotycha  
Contracts Manager  
VISTA Technology Services, Inc.  
Phone (b) (6)  
Fax (b) (6)  
Email address: (b) (6)

encl: pdf copy of this request



FOIA/PA Request  
Case No: EA-10-123  
Date Rcvd: 16 Jul 10  
Date Due: 13 Aug 10  
Rcvd By: NEB-JA/OIP

July 15, 2010

Army National Guard FOIA  
1411 Jefferson Davis Highway  
Suite 11300  
Arlington VA 22202

Dear FOIA Privacy Officer:

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

I request that a copy of the following documents be provided to me:

- 1) System Plus, Inc.'s **Technical, Key Personnel, and Past Performance Volume** in response to Solicitation No. W9133L-10-T-0012.
- 2) System Plus, Inc.'s **Cost Volume** in response to Solicitation No. W9133L-10-T-0012.
- 3) **Contract awarded** as a result of Solicitation No. W9133L-10-T-0012.

In order to help to determine my status to assess fees, you should know that I am affiliated with a private corporation and seeking information for use in the company's business.

The maximum dollar amount I am willing to pay for this request is \$ 300.00. Please notify me if the fees will exceed \$25.00 or the maximum dollar amount I entered. If the fees are less than \$25.00, I agree to pay without additional notification.

Please contact me at (703) [REDACTED] if you have any questions.

Thank you for your consideration of this request.

Sincerely,

Laura A. Wotycha  
Contracts Manager  
VISTA Technology Services, Inc.  
Phone: (b) (6) [REDACTED]  
Fax: (b) (6) [REDACTED]  
Email address: (b) (6) [REDACTED]

(b) (6) [REDACTED]