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Description of document: Records from the administrative tracking/processing file/folders for several FOIA requests and FOIA administrative appeals for the 9/11 Air Threat Conference Call transcript/audio tape, 2006-2010

Requested date: 18-April-2010

Released date: 30-June-2011

Posted date: 29-August-2011

Date/date range of document: 03-March-2006 – 31-March-2010

Source of document: Department of Defense
Office of Freedom of Information
1155 Defense Pentagon
Washington, DC 20301-1155

Note: See release letter for FOIA request/appeal details

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

JUN 30 2011

Ref: 10-F-0912

This responds to your April 18, 2010, Freedom of Information Act (FOIA) request. You requested a copy of the letter of request, the letter of response and the contents of the administrative tracking/processing file/folder for each of the following FOIA requests and FOIA administrative appeals:

1. Request by Mike Williams (in 2006) for the 9/11 Air Threat Conference Call transcript/audio tape
2. Request by the National September 11 Memorial and Museum (in 2008) for the 9/11 Air Threat Conference Call transcript/audio tape
3. Request by Kevin Fenton of History Commons (in 2006) for the 9/11 Air Threat Conference Call transcript/audio tape
4. Appeal by Kevin Fenton of History Commons for the 9/11 Air Threat Conference Call transcript/audio tape
5. Request by Scott Hodes (in 2008) for the 9/11 Air Threat Conference Call transcript/audio tape
6. Appeal by Scott Hodes for the 9/11 Air Threat Conference Call

Mr. Will Kammer, Chief, Freedom of Information Division, determined the redacted information within the enclosed documents should be withheld from release because it applies solely to Department of Defense (DoD) internal rules and practices, which if released, would risk circumvention of the DoD mission. Additionally, some of the information should be withheld because it is pre-decisional and deliberative in nature and contains subjective evaluations, opinions and recommendations which, if disclosed, would inhibit the decision making process. Release of this information would have the foreseeable harm of curtailing frank discussions and recommendations in the future. Finally, some of the information should be withheld because release would constitute a clearly unwarranted invasion of the personal privacy of individuals. Consequently, this information should be denied pursuant to 5 U.S.C. § 552 (b)(2)(High), (b)(5), and (b)(6).

If you are not satisfied with this action, you may appeal to the appellate authority, the Director of Administration and Management, Office of the Secretary of Defense, by writing directly to the Defense Freedom of Information Policy Office, Attn: Mr. James P. Hogan, 1155 Defense Pentagon, Washington, DC 20301-1155. Your appeal should be postmarked within 60

calendar days of the date of this letter, should cite case number 10-F-0912, and should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

for *Supreme Council*
Paul J. Jacobsmeyer
Chief

Enclosure(s):
As stated



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

MAR 21 2006

Ref: 06-F-1086

Mr. Mike Williams

(b)(6)

Dear Mr. Williams:

This is in response to your March 3, 2006, electronic Freedom of Information Act (FOIA) request for a copy of the "DoD Transcript, Air Threat Conference Call, Sept 11, 2001 as referred to in footnote 194 to Chapter 1 of the 9/11 Commission Report." After consultation with another Department of Defense (DoD) component, we have determined that the requested document originated with the National Military Joint Intelligence Center whose intelligence matters are handled on our behalf by the Defense Intelligence Agency (DIA).

We are referring your request to the DIA, at the below address, for processing and direct response to you. If you should have any questions regarding your request, you should write directly to the DIA.

Defense Intelligence Agency
ATTN: DAN-1A Rm E4-234
Washington, DC 20340-5100

With this action we are closing your case in this Office.

Sincerely,

Will Kammer

Will Kammer
Chief

Case Notes - (b)(6)

Freedom of Information Act Request: 06-F-1086

Requester: Mr. Mike Williams

ACTION: Transfer

BACKGROUND INFORMATION:

- Requester (b)(6) 1st FOIA per FOIA EXP) asked us to provide a copy of the "DoD Transcript, Air Threat Conference Call, Sep 11, 2001". Tasked to JS for search/response.

PROCESSING NOTES:

Case File Organization

- Copy of original request
- 472 - JS (with Transfer to DIA recommendation)
- Initial Work Sheet
- MFR
- Cost Sheet

NOTES:

- JS responded to our search tasker with a recommendation to transfer action to DIA. (Per Mar 13 FONCON w/JS AO, recommendation found to be more accurately stated as "Transfer Search and Defer on Release Determination"). JS based this on fact that responsive document originated with the National Military Joint Intelligence Center (JS). DIA handles JS intelligence (DIA J2's 2d hat is as JS J2).
- Telephone discussion with (b)(6) DIA FOIA POC, Mar 15, resulted in (b)(6) confirming JS's basis for transfer and his acceptance of such.

B. team line: Had we known this to be a DIA document, generated in Intelligence channels, we would have referred this request to DIA to begin with.

PJT

OFOISR

March 17, 2006

MEMORANDUM FOR RECORD:

SUBJECT: Case Coordination – Case 06-F-1086

1. Reference FOIA request, subject, by Mr. Williams, (b)(6) for a copy of the “DoD transcript, Air Threat Conference Call, Sep 11, 2001” related to 9/11 commission report.
2. Search tasked to JS. JS’s response was to transfer action to DIA as the responsive document was originated by the National Military Joint Intel Center (JS) and, as such, falls under DIA since DIA performs JS’s intel function (DIA J2 has a 2d hat as JS J2).
3. Discussion held Mar 13, with JS AO, (b)(6) validated that this is a transfer, not a review and return. Foncon with (b)(6) DIA FOIA, on subject, resulted in DIA agreeing with J2 and accepting the case transfer.

(b)(6)



06-5-1086

(b)(6)

CIV WHS/ESD

From: Mike Williams [nobody@dtic.mil]
Sent: Friday, March 03, 2006 8:01 AM
To: DFOISR, DOD/DFOISR/WHS
Subject: Freedom of Information Act Request

Submitted: [03/Mar/2006:08:00:55]
Name: Mike Williams
Organization:
E-mail: (b)(6)
Phone number:

Address 1:
Address 2:
City:
State:
ZIP Code:
Country:

Request Message:

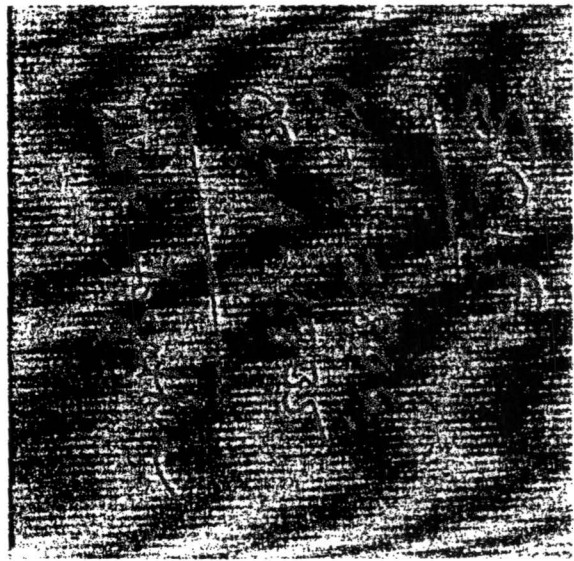
I seek a copy of the "DOD transcript, Air Threat Conference Call, Sept 11 2001" as referred to in footnote 194 to Chapter 1 of the 9/11 Commission Report. The document is described as containing "the content of the conferences on 9/11".

Willing To Pay: \$ 100

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

Sender Information:

REMOTE_HOST: unknown.Level3.net
REMOTE_ADDR: (b)(6)
Browser: Axama
E-mail: (b)(6)



06-08-2806

06-A-2806

4-11-17

ERIC LAWSON

called re request

Told him it was being reviewed

In process give

Could not give him a date.

He wanted to know when a decision
is made - who gets it first,
the requester or public.

Told him what normally happens
is that a decision will go
out to the requester and
then it is loaded
to web site.

(b)(6)

(b)(6)

From: (b)(6)
Sent: Wednesday, February 17, 2010 8:22 AM
To: (b)(6)
Subject: 08-F-1471 08-A-1835 06-A-2806 9/11 AIR THREAT CONFERENCE CALL
Signed By: (b)(2),(b)(6)

(b)(6)

I had suggested that you cease the search for the record in question at Joint Staff because DFOIPO already has this record under appeal (08-A-1835). DFOIPO will inform you once we have made a determination on this appeal. We will use 08-A-1835 to close 06-A-2806 and in turn it will enable OFOI to close 08-F-1471.

(b)(2),(b)(6)

06-A-2806

MEMO FOR RECORD

1/15/10

08-A-1835 similar request.

(b)(6)

(b)(6)

From: Hogan, James CIV WHS/ESD (b)(2)
Sent: Wednesday, January 13, 2010 3:54 PM
To: (b)(6)
Subject: RE: AIR THREAT CONFERENCE CALL 9/11
Signed By: (b)(2)

Thank you. Never heard of him.

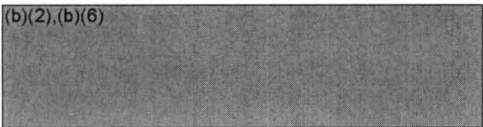
-----Original Message-----

From: (b)(6)
Sent: Wednesday, January 13, 2010 3:44 PM
To: Hogan, James CIV WHS/ESD
Subject: AIR THREAT CONFERENCE CALL 9/11

Jim,

The similar appeal is 06-A-2806. Requester is a Kevin Fenton

(b)(2),(b)(6)



(b)(6)

From: Bell, Michael CIV WHS/ESD (b)(2)
Sent: Wednesday, September 23, 2009 10:35 AM
To: (b)(6)
Subject: FW: 06-2806-A1

More on the transcript.

Michael C. Bell
FOIA Appeals Team Chief
Defense Freedom of Information Policy Office

(b)(2)

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

From: (b)(6) DoD OGC
Sent: Thursday, September 17, 2009 10:59 AM
To: (b)(6) DoD OGC; Bell, Michael CIV WHS/ESD
Subject: RE: 06-2806-A1

(b)(6) that's correct. However, I do recall that that the transcript came over on tapes and transcribed by a SCI cleared (individual if memory serves me correctly) so it has always been SCI to my knowledge.

(b)(6)

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

From: (b)(6) DoD OGC
Sent: Thursday, September 17, 2009 9:40 AM
To: Bell, Michael CIV WHS/ESD
Cc: (b)(6) DoD OGC
Subject: RE: 06-2806-A1

Mike

I don't know for sure, but seem to remember that there was a Major on the Joint Staff that came out to Sharon's facility to review the docs related to 9-11.

(b)(6) -can you assist?

If my memory is correct, somewhere I have the guy's name. He's probably gone now, but there should be someone else who can assist.

Mike-otherwise do you have what you need from OGC so that we can close out our file?

Thanks.

(b)(6)

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

From: Bell, Michael CIV WHS/ESD [mailto:(b)(2)]
Sent: Thursday, September 17, 2009 09:34
To: (b)(6) DoD OGC
Subject: RE: 06-2806-A1

(b)(6)

(b)(6) sent us the transcript, but we have been trying to figure out who the initiator was for the transcript. Do you know who the classification/denial authority is for that? Right now it is classified SCI, but we think that was a mistake. We want to downgrade it so it is easier to process. Otherwise, we can work it here.

v/r

Mike

Michael C. Bell

FOIA Appeals Team Chief

Defense Freedom of Information Policy Office

(b)(2)

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

From: (b)(6) DoD OGC

Sent: Thursday, September 17, 2009 9:29 AM

To: Bell, Michael CIV WHS/ESD

Subject: 06-2806-A1

Mike

This case appears on our old list. Can you let me know what the status is, from your end?

I think that this relates to a transcript related to 9-11.

Thanks.

(b)(2),(b)(6)

(b)(6)

From: Bell, Michael CIV WHS/ESD (b)(2)
Sent: Wednesday, September 23, 2009 10:13 AM
To: (b)(6)
Subject: FW: FOIA Appeal Air Threat Conference Call from 9/11

I think the Conference Call is responsive to 06-A-2806 and 08-A-1835. I think 05-A-0238 is the Focal Point appeal where we need to tell OGC that we have FP clearance before they send the docs.

Michael C. Bell
FOIA Appeals Team Chief
Defense Freedom of Information Policy Office

(b)(2)

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

From: (b)(6) DoD OGC
Sent: Monday, April 20, 2009 9:58 AM
To: Bell, Michael CIV WHS/ESD
Subject: RE: FOIA Appeal Air Threat Conference Call from 9/11

(b)(2)

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

From: Bell, Michael CIV WHS/ESD [mailto:(b)(2)]
Sent: Monday, April 20, 2009 9:56 AM
To: (b)(6) DoD OGC
Subject: FW: FOIA Appeal Air Threat Conference Call from 9/11

(b)(6)

What is your address at (b)(6) again? I assume that is where the document is stored. Thanks.
Mike

Michael C. Bell
FOIA Appeals Team Chief
Defense Freedom of Information Policy Office

(b)(2)

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

From: (b)(6) SFC WHS/ESD
Sent: Monday, April 20, 2009 9:53 AM
To: Bell, Michael CIV WHS/ESD
Cc: (b)(6) CIV WHS/ESD
Subject: RE: FOIA Appeal Air Threat Conference Call from 9/11

What's their room number?

(b)(6)

SFC, USA
Chief, Reports and Data Branch/
Security Manager

(b)(2)

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

From: Bell, Michael CIV WHS/ESD
Sent: Monday, April 20, 2009 9:05 AM
To: (b)(6) SFC WHS/ESD
Cc: (b)(6)
Subject: FW: FOIA Appeal Air Threat Conference Call from 9/11

(b)(6)

We have a document at OGC that we need picked up and brought over to our SCIF. It is TS-SCI (182 pages), but should not have anything special beyond SCI. The POC at OGC is (b)(6) at (b)(2). Please let me know if you have any questions. Thanks.
Mike

Michael C. Bell
FOIA Appeals Team Chief
Defense Freedom of Information Policy Office

(b)(2)

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

From: (b)(6) DoD OGC
Sent: Monday, April 20, 2009 8:59 AM
To: Bell, Michael CIV WHS/ESD; (b)(6) DoD OGC
Subject: RE: FOIA Appeal Air Threat Conference Call from 9/11

That's fine Mike.

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

From: Bell, Michael CIV WHS/ESD [mailto:(b)(2)]
Sent: Monday, April 20, 2009 8:56 AM
To: (b)(6) DoD OGC
Cc: (b)(6) DoD OGC
Subject: RE: FOIA Appeal Air Threat Conference Call from 9/11

(b)(6)

Thanks for the response. This is also the same responsive document for appeal 06-A-2806 that we were e-mailing about a couple weeks ago. I will go ahead and use your reply to close that one out as well.

Jim wanted me to pass on that he thought it was (b)(5). Also, he wanted us to get a copy of the transcript for storage in our SCIF. I will have our security manager contact (b)(6) to arrange a pick-up of the document. (b)(6) if there is someone else they should contact, please let me know.

Thanks.
Mike

Michael C. Bell
FOIA Appeals Team Chief
Defense Freedom of Information Policy Office

(b)(2)

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

From: (b)(6) DoD OGC
Sent: Monday, April 20, 2009 7:50 AM
To: Bell, Michael CIV WHS/ESD
Cc: (b)(6) DoD OGC
Subject: FW: FOIA Appeal Air Threat Conference Call from 9/11

Mike

(b)(5)

Thanks.

(b)(6)

From: (b)(6) DoD OGC
Sent: Wednesday, April 15, 2009 10:52
To: (b)(6) DoD OGC
Subject: FW: FOIA Appeal Air Threat Conference Call from 9/11

FYI.

From: Bell, Michael CIV WHS/ESD [mailto:(b)(2)]
Sent: Wednesday, April 15, 2009 10:25 AM
To: (b)(6) DoD OGC
Cc: (b)(6)
Subject: FOIA Appeal Air Threat Conference Call from 9/11

(b)(6)

For FOIA request 08-F-1835, OGC denied the Air Threat Conference Call from 9/11 in its entirety. We have a log saying it is TS/SCI. So we don't get into the confusion as before when we requested an SCI doc, what program is it so I can be sure that I am read on to it?

Also, it was withheld in its entirety by Mike. (b)(5)

I've attached all the relevant documents that I have. If you have any questions, please let me know.

Mike

Michael C. Bell

FOIA Appeals Team Chief

Defense Freedom of Information Policy Office

(b)(6)

From: Bell, Michael CIV WHS/ESD (b)(2)
Sent: Thursday, September 17, 2009 12:27 PM
To: (b)(6)
Subject: FW: 06-2806-A1

I think this is your case. See if the JS would have jurisdiction over the 9/11 transcript.

Michael C. Bell
FOIA Appeals Team Chief
Defense Freedom of Information Policy Office
(b)(2)

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

From: (b)(6) DoD OGC
Sent: Thursday, September 17, 2009 10:59 AM
To: (b)(6) DoD OGC; Bell, Michael CIV WHS/ESD
Subject: RE: 06-2806-A1

(b)(6) that's correct. However, I do recall that that the transcript came over on tapes and transcribed by a SCI cleared (individual if memory serves me correctly) so it has always been SCI to my knowledge.

(b)(6)

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

From: (b)(6) DoD OGC
Sent: Thursday, September 17, 2009 9:40 AM
To: Bell, Michael CIV WHS/ESD
Cc: (b)(6) DoD OGC
Subject: RE: 06-2806-A1

Mike

I don't know for sure, but seem to remember that there was a Major on the Joint Staff that came out to (b)(6) facility to review the docs related to 9-11.

(b)(6) -can you assist?

If my memory is correct, somewhere I have the guy's name. He's probably gone now, but there should be someone else who can assist.

Mike-otherwise do you have what you need from OGC so that we can close out our file?

Thanks.

(b)(6)

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

From: Bell, Michael CIV WHS/ESD [mailto:(b)(2)]
Sent: Thursday, September 17, 2009 09:34
To: (b)(6) DoD OGC
Subject: RE: 06-2806-A1

(b)(6)

(b)(6) sent us the transcript, but we have been trying to figure out who the initiator was for the transcript. Do you know who the classification/denial authority is for that? Right now it is classified SCI, but we think that was a mistake. We want to downgrade it so it is easier to process. Otherwise, we can work it here.

v/r

Mike

Michael C. Bell

FOIA Appeals Team Chief

Defense Freedom of Information Policy Office

(b)(2)

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

From: (b)(6) DoD OGC

Sent: Thursday, September 17, 2009 9:29 AM

To: Bell, Michael CIV WHS/ESD

Subject: 06-2806-A1

Mike

This case appears on our old list. Can you let me know what the status is, from your end?

I think that this relates to a transcript related to 9-11.

Thanks.

(b)(2),(b)(6)

(b)(6)

From: Bell, Michael CIV WHS/ESD (b)(2)
Sent: Monday, April 20, 2009 9:03 AM
To: (b)(6)
Subject: FW: FOIA Appeal Air Threat Conference Call from 9/11
Attachments: Hodes Appeal and Docs (08-A-1835).pdf

(b)(6)

(b)(5) This will also close out 06-A-2806, so you get a 2 for 1 closure.

I will ask SGT (b)(6) to contact OGC for pick up of the SCI document. We will then make two special handling packages to go up for signature.
Mike

Michael C. Bell
FOIA Appeals Team Chief
Defense Freedom of Information Policy Office

(b)(2)

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

From: (b)(6) DoD OGC
Sent: Monday, April 20, 2009 7:50 AM
To: Bell, Michael CIV WHS/ESD
Cc: (b)(6) DoD OGC
Subject: FW: FOIA Appeal Air Threat Conference Call from 9/11

Mike
It should still be withheld in full.
Thanks.

(b)(6)

From: (b)(6) DoD OGC
Sent: Wednesday, April 15, 2009 10:52
To: (b)(6) DoD OGC
Subject: FW: FOIA Appeal Air Threat Conference Call from 9/11

FYI.

From: Bell, Michael CIV WHS/ESD (b)(2)
Sent: Wednesday, April 15, 2009 10:25 AM
To: (b)(6) DoD OGC
Cc: (b)(6)
Subject: FOIA Appeal Air Threat Conference Call from 9/11

(b)(6)

For FOIA request 08-F-1835, OGC denied the Air Threat Conference Call from 9/11 in its entirety. We have a log saying it is TS/SCI. So we don't get into the confusion as before when we requested an SCI doc, what program is it so I can be sure that I am read on to it?

Also, it was withheld in its entirety by Mike. (b)(5)

(b)(5)

I've attached all the relevant documents that I have. If you have any questions, please let me know.

Mike

Michael C. Bell

FOIA Appeals Team Chief

Defense Freedom of Information Policy Office

(b)(2)

<<...>>

(b)(6)

From: Bell, Michael CIV WHS/ESD
Sent: Monday, March 23, 2009 8:26 AM
To: (b)(6)
Cc: (b)(6)
Subject: 06-A-2806
Signed By: (b)(2)

(b)(6)

We tasked OGC on 2 Jun 08 to provide us with the responsive document. We have not heard back. We can't rule on the appeal until we see what was denied initially. If you need more follow-up, please let (b)(6) know and we can see if OGC is still working this.

Michael C. Bell

FOIA Appeals Team Chief

Defense Freedom of Information Policy Office

(b)(2)

REQUEST INFORMATION SHEET				SEE INSTRUCTIONS ON BACK	
TO: OFOISR ROOM 2C757, PENTAGON		1. TYPE OF REQUEST <input checked="" type="checkbox"/> INITIAL <input type="checkbox"/> APPEAL		This form is to be used for recording disclosure/non-disclosure determination associated with processing a Freedom of Information or Privacy request.	
2. CASE NO. <i>06-2806</i>		3. RECORD PROVIDED TO PROPONENT <input type="checkbox"/> FOR REVIEW?		4. COMPONENT SEARCH RESULTS <input checked="" type="checkbox"/> RECORD FOUND <input type="checkbox"/> NO RECORD	
5. - 8. RECORD DESCRIPTIONS					
5 a. DATE (YYYYMMDD)		b. SECURITY CLASSIFICATION		d. ADDRESSEE	
c. TYPE		e. ORIGINATOR		1. SUBJECT/TITLE <i>DoD TRANSCRIPT Air Threat Conference Call</i>	
6 a. DATE (YYYYMMDD)		b. SECURITY CLASSIFICATION		d. ADDRESSEE	
c. TYPE		e. ORIGINATOR		1. SUBJECT/TITLE	
7 a. DATE (YYYYMMDD)		b. SECURITY CLASSIFICATION		d. ADDRESSEE	
c. TYPE		e. ORIGINATOR		1. SUBJECT/TITLE	
8 a. DATE (YYYYMMDD)		b. SECURITY CLASSIFICATION		d. ADDRESSEE	
c. TYPE		e. ORIGINATOR		1. SUBJECT/TITLE	
9a. ACTION TAKEN BY COMPONENT <input type="checkbox"/> GRANT IN FULL <input checked="" type="checkbox"/> DENY <input type="checkbox"/> TRANSFER TO <input type="checkbox"/> GRANT IN PART <input type="checkbox"/> NO OBJECTION TO DISCLOSURE					b. ADDRESSEE
10. EXEMPTIONS INVOLVED FOR DENIALS (See 5 USC 552, 5 USC 552a, DoD Regulation 5-00.7 R, and DoD Regulation 5-00.11-R) <i>b 1</i>					
11. RATIONALE FOR DENIAL <i>Classified TS/SCC</i>					
12. REMARKS <i>document is consistent w/</i> (b)(6)					
13. COORDINATION					
a. NAME (Last, First, Middle Initial)		b. OFFICE SYMBOL		c. TELEPHONE NO.	
d. CONCUR		e. NON-CONCUR			
14. ACTION OFFICER					
a. NAME (Last, First, Middle Initial)		b. RANK		c. TITLE	
d. SIGNATURE		e. OFFICE TELEPHONE NUMBER			
15. APPROVAL/DENIAL AUTHORITY					
a. NAME (Last, First, Middle Initial)		b. RANK		c. TITLE	
d. SIGNATURE		e. DATE (YYYYMMDD)			



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

05 MAY 2008

Ref: 06-A-2806

MEMORANDUM FOR: OFFICE OF THE GENERAL COUNSEL (OGC)
ATTN: (b)(6)

SUBJECT: Freedom of Information Act (FOIA) Appeal – Mr. Kevin Fenton

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

Please provide this office with a copy of the Air Threat Conference Call transcript. We assume that this document did not originate with the OGC. We do not anticipate releasing this transcript, but we will review the document and refer it to the originating agency for final disposition. We have attached a copy of the initial SD Form 472 to assist you with processing this appeal. The form states the document is classified TS/SCI and needs special handling. When the document is ready for transport, please call the action officer listed below for pick-up.

Please forward your response to this office by June 2, 2008. You may direct any questions concerning this appeal to Mr. Michael Bell at (b)(2) or

(b)(2)

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

Attachments:
As stated

Bell, Michael CIV WHS/ESD

From: Bell, Michael CIV WHS/ESD
Sent: Monday, May 05, 2008 2:53 PM
To: (b)(6) DoD OGC
Subject: Appeal Tasker 06-A-2806
Signed By: (b)(2)

Attachments: 06-A-2806 Tasker.pdf



06-A-2806
Tasker.pdf

Good afternoon,

We received an appeal to your response for FOIA request 06-F-2806 (Fenton). Please see the attached tasker letters for details. Let me know if you have any questions. Thanks.

Mike

Michael C. Bell
Freedom of Information Act Specialist
FOIA Policy, Appeals and Litigation
(b)(2)

<<...>>



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

01 MAY 2008

Ref: 06-A-2806

Mr. Kevin Fenton

(b)(6)

Dear Mr. Fenton:

This is in response to your April 10, 2008, Freedom of Information Act (FOIA) appeal.

Due to an extremely heavy FOIA workload, we are unable to complete your appeal within the statutory time requirement. In fairness to the general public, we make every effort to treat all requesters equally. Accordingly, responses are made on a first-in, first-out, easy-hard basis, and controlled in response queues. When the appellate review of your case is complete, you will be notified by the appellate authority, the Deputy Director of Administration and Management, Office of the Secretary of Defense, of the final decision. You may direct any questions concerning this appeal to Mr. Michael Bell at (703) 696-4695, or michael.bell@whs.mil.

Sincerely,

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

FOI/PA CASE ASSIGNMENT WORKSHEET

Case No: 06-A-2806-A1

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

08 APR 2006 4:44

CLOSED WITHDRAWN

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

E-FOIA REPLY

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

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

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

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

Kevin Fenton

(b)(6)



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

10 April 2008

Re: Case number 06-F-2806.

APPEAL OF FOIA REQUEST DENIAL

Dear Mr. Hogan,

I appeal the denial of my FOIA request number 06-F-2806. The application, submitted on September 13, 2006, was for a document entitled DOD transcript, Air Threat Conference Call, Sept. 11, 2001, which was mentioned in the 9/11 Commission Report. It was denied in full by a letter dated 7 March 2008 that stated that the document "contains information specifically exempt from release pursuant to 5 U.S.C. § 552(b)(1), which applies to information currently and properly classified consistent by Executive Order 12958, as amended, Section A.4(a), which pertains to military plans, weapons systems, or operations."

However, this denial was made in error, as numerous pieces of information based on this specific document have already been made public. The information already made public can no longer be classified and exempt from disclosure, and these portions of the underlying document requested, at least, should be released pursuant to the FOIA application. Below I list some of the information that has already been made public. Please release at least the relevant portions of the document requested. In addition, please release any other portions of the document not exempt from release.

List of Some Information Already Publicly Available Based on the Air Threat Conference Call document:

- (1) According to the 9/11 Commission (9/11 Commission Report, pp. 37, 463), the document states that shutdown authority had already been conveyed by 10:25 a.m.
- (2) According to the 9/11 Commission (pp. 37, 463), the document contains a recap of events prior to 9:29 a.m., stating that two aircraft had hit the WTC and two fighters

had been scrambled from Otis air force base. There was also a request for information from the FAA, a statement that American 11 was still airborne by the deputy director of operations in the NMCC, and a transition from a significant event conference to an air threat conference. NORAD also confirmed that American 11 is airborne.

- (3) According to the 9/11 Commission (pp. 37, 463), the document states that there were three requests the FAA be added to the call before 10:03 a.m. An FAA representative subsequently joined at 10:17 a.m.
- (4) According to the 9/11 Commission (pp. 38, 463), the document states that at 9:39 the NMCC's deputy director said: "An air attack against North America may be in progress. NORAD, what's the situation?" NORAD replied it has conflicting reports and its latest information is "of a possible hijacked aircraft taking off out of JFK en route to Washington D.C." The NMCC then reported a crash into the mall side of the Pentagon and asked that the Secretary of Defense be added to the call.
- (5) According to the 9/11 Commission (pp. 38, 463), the document states that at 9:48 a representative from the White House shelter asked if there are any indications of another hijacked aircraft. The deputy director for operations mentioned a Delta flight and says "that would be the fourth possible hijack." At 9:49, the commander of NORAD directed all air sovereignty aircraft to battle stations, fully armed.
- (6) According to the 9/11 Commission (pp. 41, 464), the document states that at around or before 10:02 the Secret Service notified of an inbound aircraft heading to Washington.
- (7) According to the 9/11 Commission (pp. 41, 465), the document states that some people speculated that United 93 may have been shot down pursuant to instructions from the President shortly before 10:30 a.m.
- (8) According to the 9/11 Commission (pp. 41, 465), the document states that shortly after 10:30 Vice President Cheney communicated authorisation to "engage" or "take out" a hostile aircraft. At 10:33 Deputy National Security Advisor Stephen Hadley says: "I need to get word to Dick Myers that our reports are there's an inbound aircraft flying low 5 miles out. The Vice President's guidance was we need to take them out."
- (9) According to the 9/11 Commission (pp. 42, 465), the document states that the NMCC learned of the hijacking of United 93 at about 10:03.
- (10) According to the 9/11 Commission (pp. 42, 465), the document states that at 10:07 a NORAD representative states NORAD had "no indication of a hijack heading to DC at this time."
- (11) According to the 9/11 Commission (pp. 43, 465), the document states that leaders in Washington believed that fighters launched to intercept hijacked aircraft had been instructed to take them out.

- (12) According to the 9/11 Commission (pp. 43, 465), the document states that the following exchange took place at 10:39 a.m.:

Vice President: There's been at least three instances here where we've had reports of aircraft approaching Washington--a couple were confirmed hijack. And, pursuant to the President's instructions I gave authorization for them to be taken out. Hello?

SecDef: Yes, I understand. Who did you give that direction to?

Vice President: It was passed from here through the [operations] center at the White House, from the [shelter].

SecDef: OK, let me ask the question here. Has that directive been transmitted to the aircraft?

Vice President: Yes, it has.

SecDef: So we've got a couple of aircraft up there that have those instructions at this present time?

Vice President: That is correct. And it's my understanding they've already taken a couple of aircraft out.

SecDef: We can't confirm that. We're told that one aircraft is down but we do not have a pilot report that did it

- (13) According to the 9/11 Commission (pp. 326, 554), the document states that at 10:43 a.m. the Secretary of Defense directed the nation's armed forces to Defense Condition 3. Secretary Rumsfeld then discussed the issue with Vice President Cheney, and was asked to get the President's opinion on this. The conferees were told to "hold off" on the order, but it was reinstated shortly after by Secretary Rumsfeld, who said he has the authority to issue the order.

Please release the portions of the document specified above, at least. These portions can no longer be classified, as they, or significant information about them, is already public.

I look forward to your reply.

Regards,

Kevin Fenton



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

7 MAR 2007

Ref: 06-F-2806

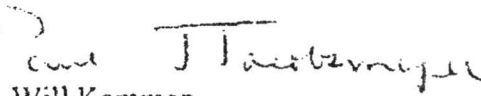
Kevin Fenton

(b)(6)

This responds to your enclosed Freedom of Information Act (FOIA) request dated September 13, 2006. Mr. Michael Reheuser, Associate Deputy, Office of the General Counsel, has determined that the document responsive to your request, "the DOD transcript, Air Threat Conference Call, Sept. 11, 2001", contains information specifically exempt from release pursuant to 5 U.S.C. § 552(b)(1), which applies to information currently and properly classified consistent by Executive Order 12958, as amended, Section 1.4(a), which pertains to military plans, weapons systems, or operations. Accordingly, the entire document, consisting of approximately 182 pages, is denied in full.

If you are dissatisfied with this action you may submit an appeal to this Office, by writing to Mr. James Hogan, Chief, Policy, Appeals and Litigation Branch, Office of Freedom of Information, 1155 Defense Pentagon, Washington, D.C. 20301-1155. Your appeal letter should be postmarked within 60 calendar days of the date of this letter and should cite case number 06-F-2806.

Sincerely,


Will Kammer
Chief

Enclosure:
As stated

06-F-2806

Jacobsmeier, Paul J. CIV WHS/ESD

From: Jacobsmeier, Paul J. CIV WHS/ESD
Sent: Thursday, March 06, 2008 3:23 PM
To: (b)(6)
Subject: FW: 06-F-2806 page count
Signed By: (b)(2)

(b)(6) --use this answer. PJJ

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

From: (b)(6) DoD OGC [mailto:(b)(2),(b)(6)]
Sent: Thursday, March 06, 2008 3:22 PM
To: Jacobsmeier, Paul J. CIV WHS/ESD
Cc: (b)(6) DoD OGC
Subject: RE: 06-F-2806 page count

The Air Threat Conference has approximately 182 pages.

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

From: Jacobsmeier, Paul J. CIV WHS/ESD [mailto:(b)(2)]
Sent: Thursday, March 06, 2008 2:44 PM
To: (b)(6) DoD OGC
Cc: (b)(6) DoD OGC
Subject: FW: 06-F-2806 page count

(b)(6) --can we get a page count for the document involved in this case?
The FOIA requires it for a denial in full. Thanks, Paul JJ

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

From: (b)(6)
Sent: Thursday, March 06, 2008 2:42 PM
To: Jacobsmeier, Paul J. CIV WHS/ESD
Subject: 06-F-2806 page count

Paul,

I need a page count for the records associated with case 06-F-2806 because it came back from OGC as a denial in full. (b)(6) listed (b)(6) (b)(6) as the POC with access to these records.

(b)(2),(b)(6)



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

OCT 04 2006

Ref: 06-F-2808

Mr. Kevin Fenton

(b)(6)

Dear Mr. Fenton:

This is an interim response to your September 13, 2006, Freedom of Information Act (FOIA) request seeking "copies of a document entitled DOD transcript, Air Threat Conference Call, Sept. 11, 2001". We received your request on September 26, 2006, and assigned it FOIA case number 06-F-2808.

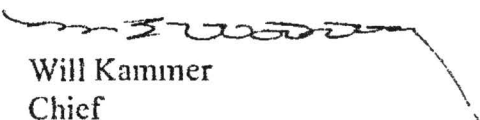
I have determined that you should be placed in the "other" category for fee purposes, which affords you two hours of search time and 100 pages of duplication free of charge. Subsequent processing will be assessed at the established DoD fee rates of: clerical search time--\$20 per hour; professional search time--\$44 per hour; executive search time--\$75 per hour; and document reproduction at \$0.15 per page.

Regarding your request for a fee waiver, decisions to waive or reduce fees are made on a case-by-case basis. A fee waiver is appropriate when "disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of the government and is not primarily in the commercial interest of the requester," 5 U.S.C. § 552(a)(4)(iii). I will consider your request for a fee waiver after a search is completed and this Office determines if records responsive to your request exist and the volume of those records. However, without a commitment on your part to pay fees, my decision will be made based on the results of two hours of search time. If you want the search extended beyond two hours, we will need a written commitment from you as to the amount of fees that you are willing to pay in the event that a fee waiver is not granted.

If you have any questions concerning your FOIA request, please contact (b)(6)

(b)(6)

Sincerely,


for Will Kammer
Chief

96-f-2886

Kevin Fenton

(b)(6)



September 13, 2006

Directorate for Freedom of Information/Security Review
Room 2C757
1155 Defense Pentagon
Washington, DC 20301-1155

FOIA REQUEST

Fee waiver requested

Dear FOI Officer:

Pursuant to the federal Freedom of Information Act, 5 U.S.C. § 552, I request access to and copies of a document entitled DOD transcript, Air Threat Conference Call, Sept. 11, 2001. The transcript is mentioned by the 9/11 Commission Report in endnote 217 to Chapter 1, on page 464. We seek the transcript for the sake of completeness, as many other DoD documents mentioned by the 9/11 Commission Report have already been disclosed, but this transcript has not. For example, the complete NEADS tapes were disclosed to *Vanity Fair* and many other documents have been placed in the George Washington University National Security Archive.

Please waive any applicable fees. Release of the information is in the public interest because it will contribute significantly to public understanding of government operations and activities. We are seeking the documents for our website, the 9/11 Timeline, link:
http://www.cooperativeresearch.org/project.jsp?project=911_project The timeline is run by Paul Thompson, author of the *Terror Timeline*, published by Harper Collins. It's aim is to collate mainstream media reports regarding the 9/11 attacks on the US, thereby facilitating understanding of one of the most important events in US history.

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 segregable 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.

I look forward to your reply within 20 business days, as the statute requires.

Thank you for your assistance.

Sincerely,



Kevin Fenton



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

31 MAR 2010

Ref: 08-F-1471

Ms. Jamaica Jones
National September 11 Memorial Museum

(b)(6)

Dear Ms. Jones:

This is in response to your July 11, 2008, electronic Freedom of Information Act (FOIA) request for "[t]apes and transcripts of the Air Threat Conference Call held at the National Military Command Center (NMCC) convened at approximately 0930 on the morning of September 11, 2001." We received your request on that same date and we assigned it FOIA request number 08-F-1471.

In response to an identical request for the document described above, Mr. Michael E. Reheuser, Associate Deputy Counsel, Office of General Counsel, Department of Defense (DoD), an Initial Denial Authority, determined that the subject document, totaling 182 pages, is exempt from release in its entirety pursuant to Exemption 1 of the FOIA, 5 U.S.C. § 552 (b)(1), which applies to information currently and properly classified pursuant to Executive Order 12958, as amended, Section 1.4(a), which concerns military plans, weapons, or operations, (c), which concerns intelligence activities (including special activities), intelligence sources or methods, or cryptology, and (g), which concerns vulnerabilities or capability of systems, installations, infrastructures, projects, plans, or protection services relating to the national security, which includes defense against transnational terrorism. I regret the inadvertent delay in advising you of this outcome.

If you are not satisfied with this action, you may appeal to the appellate authority, the Director of Administration and Management, Office of the Secretary of Defense, by writing directly to the Defense Freedom of Information Policy Office, Attn: Mr. James Hogan, 1155 Defense Pentagon, Washington, DC 20301-1155. Your appeal should be postmarked within 60 days of the date of this letter, should cite FOIA request number 08-F-1471, and should be clearly marked "Freedom of Information Act Appeal." There are no assessable fees associated with this response.

Sincerely,

Paul J. Jacobsmeyer
Chief

TEAM B CASE#: 08-F-1471

ACTION OFFICER: (b)(6)

Did you search FX for other similar or same requests? Yes

If you found similar/same requests, what are the file numbers? 06-F-2806, 08-F-1835, 10-F-0797

GRANT	DENIAL	X
PARTIAL	TRANSFER	
WITHDRAWAL	ADMIN CLOSE-OUT	REFERRAL
		NO RECORD X

In the case of no records response, did you research the request to see what you could find on the subject? n/a. For instance, requester wanted DOD contract w/NeoStem, Inc. DMDC could not find records. Your search parameter could begin with DOD and NeoStem, Inc.

CASE HISTORY

Request was asking for tapes and transcripts of the Air Threat Conference Call held at the National Military Command Center on 9/11/01.

RESPONSES RECEIVED

Previous requests for the identical document (182 pages) denied in full by OGC, (b)(1), sec.1.4 (a),(c),and (g).

COMMENTS:

Appeals office asked we close tasker to JS on this request since the document had been previously denied and since an appeal(s) had been lodged. JH also added a note on closing this request.

WILL DOCUMENTS RELEASED IN THIS FOIA CASE BE POSTED IN THE FOIA READING ROOM?

YES ACTION OFFICER PROVIDED A COPY OF THE RELEASED DOCUMENT(S) ON CD TO _____.

NO: X FURTHER ACTION: No further action.

JH on closing 08-F-1471

(b)(6)

From: Hogan, James CIV WHS/ESD
Sent: Tuesday, March 30, 2010 3:40 PM
To: (b)(6)
Cc:
Subject: RE: 08-F-1471 08-A-1835 06-A-2806 9/11 AIR THREAT CONFERENCE CALL
Signed By: (b)(2)

All,

You should deny the open initial request (Jones) just like the previous one was, and give her appeal rights. We don't need to explain any further about another appeal.

Jim

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

From: (b)(6)
Sent: Tuesday, March 30, 2010 3:36 PM
To: (b)(6)
Cc: Hogan, James CIV WHS/ESD; (b)(6)
Subject: RE: 08-F-1471 08-A-1835 06-A-2806 9/11 AIR THREAT CONFERENCE CALL

(b)(6)

I do not see a problem with that. It would be an initial closure and it is not likely that the appellate review will be complete anytime soon. However, it has the potential to end up in the appeal queue right away. I have cc'd Jim and (b)(6) on this email, so I would like to get their point of view also. As a side note, if anything in the 9/11 AIR THREAT CONFERENCE CALL becomes releasable, then it would be a definitely be posted to the reading room.

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

From: (b)(6)
Sent: Tuesday, March 30, 2010 3:12 PM
To: (b)(6)
Subject: FW: 08-F-1471 08-A-1835 06-A-2806 9/11 AIR THREAT CONFERENCE CALL

(b)(6)

In forwarding the e-mail exchange below, it seems to me that our office could move forward to close out this request by advising our requester(Jamaica Jones, 08-F-1471) that the requested records were previously denied, and that an appeal of that denial was lodged. We would further advise Jamaica Jones that we would consider whether or not to reopen her initial request once a final decision on that appeal is known.

Can you see any problems with this approach on our part?

Thanks,

(b)(6)

08-F-1471
e-MAIL exchange w/ APPEALS

(b)(6)

From: (b)(6)
Sent: Wednesday, February 17, 2010 8:28 AM
To: (b)(6)
Subject: RE: 08-F-1471 08-A-1835 06-A-2806 9/11 AIR THREAT CONFERENCE CALL
Signed By: (b)(2),(b)(6)

(b)(6)

Thanks for your follow-up note. I will advise JS to close out our tasker for 08-F-1471. I already made a note in the case folder that Appeals will advise when final action has been taken.

Thanks,

(b)(6)

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

From: (b)(6)
Sent: Wednesday, February 17, 2010 8:22 AM
To: (b)(6)
Subject: 08-F-1471 08-A-1835 06-A-2806 9/11 AIR THREAT CONFERENCE CALL

(b)(6)

I had suggested that you cease the search for the record in question at Joint Staff because DFOIPO already has this record under appeal (08-A-1835). DFOIPO will inform you once we have made a determination on this appeal. We will use 08-A-1835 to close 06-A-2806 and in turn it will enable OFOI to close 08-F-1471.

(b)(2),(b)(6)

(b)(6)

From: Jamaica Jones (b)(6)
Sent: Friday, July 11, 2008 2:33 PM
To: OSD/JS FOIA Requester Service Center
Subject: Freedom of Information Act Request

Submitted: [11/Jul/2008:14:33:23]

Name: Jamaica Jones
Organization: National September 11 Memorial Museum
E-mail: (b)(6)
Phone number: (b)(6)

Address 1:
Address 2:
City:
State:
ZIP Code:
Country: United States of America
Province-Region-Territory:
Post Code:

Requester Control Number:

Your Request: On behalf of the National September 11 Memorial and Museum at the World Trade Center (the "National Memorial") I am requesting, pursuant to the federal Freedom of Information Act, 5 U.S.C. § 552, access to and copies of the following materials in the possession of the Department of Defense:

1. Tapes and transcripts of the Air Threat Conference Call held at the National Military Command Center (NMCC) convened at approximately 0930 on the morning of September 11, 2001. These tapes and transcripts should be redacted of Continuity of Government and Continuity of Operations Information.

By way of background, the National Memorial is designing, building and will own and operate the National Memorial and Museum at the World Trade Center.

I agree to pay reasonable duplication fees for the processing of this request in an amount not to exceed \$200. Please note that I will likely agree to incur fees above \$200 provided that I receive advance notice that expenses in excess of \$200 will be incurred.

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 segregable portions of otherwise exempt material. I, of course, reserve the right to appeal your decision to withhold any information requested herein.

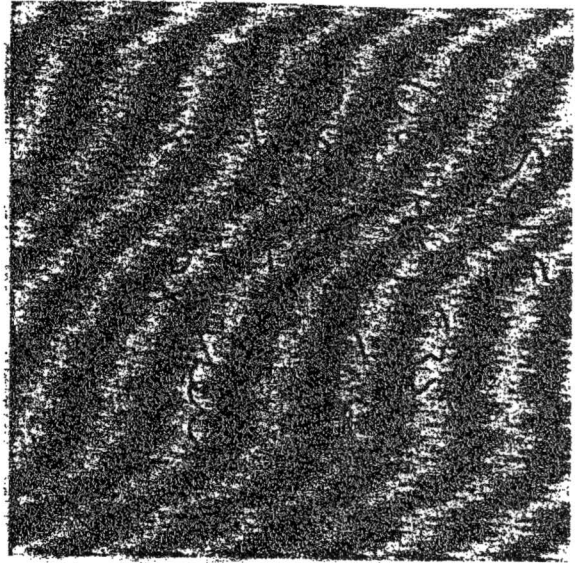
Please feel free to contact me at (b)(6) should you have any questions or require further information pertaining to this request.

Thank you in advance for your time. I look forward to your reply within 20 business days, as the Act requires.

Willing to Pay \$25:
Willing to Pay \$50:
Willing to Pay \$100:
Willing to Pay Other: Yes
Will Pay Other Amount Fill-in: \$ 200

Privacy Act Request Certification:

I declare under penalty of perjury that I am Jamaica Jones and that the statements contained in this document are true and correct.



DOC in
SCIF

08-A-1835-A1

08-A-1835-A1

Freedom Of Information Act
Request - 05-F- 0204

Request from National Security Archive for document from Chapter 1, 9/11 Commission Report

Subject	Page #	Date	Classification
Noble Eagle 9-11 Timeline	78	Undated	Secret
Interview of David Wherley	73	3 Oct 01	Secret
Interview of SOD	12	23 Dec 02	Unclass
Rules of Engagement	20	1 Sep 01	Secret
Stephen Cambone Notes	24	11 Sep 01	TS/SCI
ADDO Passdown log	5	11 Sep 01	TS
Continental Region Chat Log	99	11 Sep 01	Secret
MCC/T Log Book	4	11 Sep 01	Secret
SOO Log	6	11 Sep 01	Secret
Surveillance Log Book	3	11 Sep 01	Secret
OT-2 Analysis of NMCC	16	11 Sep 01	Unclass
NORAD Strategy Review	68	July 1992	Secret
Air Threat Conference Call	172	11 Sep 01	TS/SCI

only covers
Zigge under
rest of Dec
is Secret.

REQUEST INFORMATION SHEET				SEE INSTRUCTIONS ON BACK	
TO: OFOISR ROOM 2C757, PENTAGON		1. TYPE OF REQUEST <input checked="" type="checkbox"/> INITIAL <input type="checkbox"/> APPEAL		This form is to be used for recording disclosure non-disclosure determination associated with processing a Freedom of Information or Privacy request.	
2. CASE NO. 05-F-0204		3. RECORD PROVIDED TO PROPONENT <input checked="" type="checkbox"/> FOR REVIEW?			
				4. COMPONENT SEARCH RESULTS <input checked="" type="checkbox"/> RECORD FOUND <input type="checkbox"/> NO RECORD	
5. - 8. RECORD DESCRIPTIONS					
5 a. DATE (YYYYMMDD)		b. SECURITY CLASSIFICATION		d. ADDRESSEE	
c. TYPE		e. ORIGINATOR		f. SUBJECT TITLE	
6 a. DATE (YYYYMMDD)		b. SECURITY CLASSIFICATION		d. ADDRESSEE	
c. TYPE		e. ORIGINATOR		f. SUBJECT TITLE	
7 a. DATE (YYYYMMDD)		b. SECURITY CLASSIFICATION		d. ADDRESSEE	
c. TYPE		e. ORIGINATOR		f. SUBJECT TITLE	
8 a. DATE (YYYYMMDD)		b. SECURITY CLASSIFICATION		d. ADDRESSEE	
c. TYPE		e. ORIGINATOR		f. SUBJECT TITLE	
9 a. ACTION TAKEN BY COMPONENT <input type="checkbox"/> GRANT IN FULL <input checked="" type="checkbox"/> DENY <input type="checkbox"/> TRANSFER TO <input type="checkbox"/> GRANT IN PART <input type="checkbox"/> NO OBJECTION TO DISCLOSURE				b. ADDRESSEE	
10. EXEMPTIONS INVOLVED FOR DENIALS (See 5 USC 552, 5 USC 552a, DoD Regulation 5400.7-R, and DoD Regulation 5400.11-R)					
11. RATIONALE FOR DENIAL					
12. REMARKS					
13. COORDINATION					
a. NAME (Last, First, Middle Initial)		b. OFFICE SYMBOL		c. TELEPHONE NO.	d. CONCUR <input type="checkbox"/> NON-CONCUR <input type="checkbox"/>
14. ACTION OFFICER					
a. NAME (Last, First, Middle Initial)		b. RANK	c. TITLE	d. SIGNATURE	e. OFFICE TELEPHONE NUMBER
15. APPROVAL/DENIAL AUTHORITY					
a. NAME (Last, First, Middle Initial)		b. RANK	c. TITLE	d. SIGNATURE	e. DATE (YYYYMMDD)
1581501, 1004/15		GS 15	/S00 49/60	1581501	26070119

UPON REMOVAL OF ATTACHMENT(S)
DOCUMENT BECOMES UNCLASSIFIED
~~FOI DENIED / 01~~



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

APR 26 2010

Ref: 08-A-1835

MEMORANDUM FOR: JOINT STAFF

ATTN: (b)(6)

SUBJECT: Freedom of Information Act (FOIA) Appeal – Scott Hodes

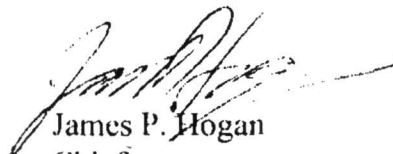
Attached is an appeal of the denial of information in the case referenced above. In order for the Deputy Director, Administration and Management to fulfill responsibilities as the appellate authority, we ask that you conduct a review of the attached document (9/11 Air Threat Conference Call), previously withheld from release in its entirety.

This office has conducted an appellate review of this document and recommends,

(b)(5)

Forward your response to this office by March 19, 2010. Our action officer is

(b)(2), (b)(6)


James P. Hogan
Chief

Attachments:

As stated

UPON REMOVAL OF ATTACHMENT(S)
DOCUMENT BECOMES UNCLASSIFIED

Turner, Alisa CIV WHS/ESD

From: Turner, Alisa CIV WHS/ESD
Sent: Friday, April 16, 2010 9:14 AM
To: (b)(6)
Subject: FOIA Appeal 08-A-1835
Signed By: (b)(2)

Good morning Mr. Hodes,

I apologize for the delay in our response to your inquiry. There has been recent turnover in the office and I am currently looking into the status of your request.

I will hopefully get back to you by early next week with a definitive status.

Thank you.

Alisa N. Turner

Freedom of Information Act Appeals Team Chief

Defense Freedom of Information Policy Office

Phone: (b)(2)

(b)(6)

From: (b)(6)
Sent: Thursday, April 15, 2010 2:22 PM
To: (b)(6)
Subject: RE: appeal 08-A-1835
Signed By: (b)(2),(b)(6)

Thanks (b)(6)
Please keep me advised of status
(b)(6)

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

From: (b)(6)
Sent: Thursday, April 15, 2010 2:18 PM
To: (b)(6)
Subject: RE: appeal 08-A-1835

As far as I know it just needs to be sent out. I can put this on top of the queue for my four hours with Paul tomorrow.

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

From: (b)(6)
Sent: Thursday, April 15, 2010 2:14 PM
To: (b)(6)
Subject: FW: appeal 08-A-1835

(b)(6)
This relates to the Air Threat Conference Call.
Did this ever get out to JS yet or is it still sitting upstairs?
Thanks
(b)(6)

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

From: (b)(6)
Sent: Tuesday, April 13, 2010 2:08 PM
To: (b)(6) Turner, Alisa CIV WHS/ESD
Subject: FW: appeal 08-A-1835

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

From: Scott Hodes [mailto:(b)(6)]
Sent: Monday, April 12, 2010 3:24 PM
To: (b)(6)
Subject: appeal 08-A-1835

Can you tell me the status of this matter?

Scott Hodes

(b)(6)

(b)(6)

From: (b)(6)
Sent: Tuesday, April 13, 2010 2:08 PM
To: (b)(6) Turner, Alisa CIV WHS/ESD
Subject: FW: appeal 08-A-1835
Signed By: (b)(2)

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

From: Scott Hodes [mailto:(b)(6)]
Sent: Monday, April 12, 2010 3:24 PM
To: (b)(6)
Subject: appeal 08-A-1835

Can you tell me the status of this matter?

Scott Hodes

(b)(6)

4-15-2010

Alisa

This appeal is in the SCIF
(b)(6) did an appellate review to
be sent to JS. Unfortunately,
it is hard getting things in
and out of the SCIF.
(b)(6) said he would try to
get it out tomorrow.

Do you want to
respond to the Registrar?
Thank you (b)(6)

(b)(6)

From: (b)(6)
Sent: Wednesday, February 17, 2010 8:22 AM
To: (b)(6)
Subject: 08-F-1471 08-A-1835 06-A-2806 9/11 AIR THREAT CONFERENCE CALL
Signed By: (b)(2),(b)(6)

(b)(6)

I had suggested that you cease the search for the record in question at Joint Staff because DFOIPO already has this record under appeal (08-A-1835). DFOIPO will inform you once we have made a determination on this appeal. We will use 08-A-1835 to close 06-A-2806 and in turn it will enable OFOI to close 08-F-1471.

(b)(2),(b)(6)

Irvine, Darren CIV WHS/ESD

From: Meiners, Regina Mrs OSD ODAM
Sent: Thursday, January 14, 2010 3:15 PM
To: Irvine, Darren CIV WHS/ESD
Cc: Ingrodi, George Mr OSD ODAM; Glassner, Craig SES WHS/ESD; Kammer, William CIV WHS/ESD
Subject: RE: 08-A-1835 (U)
Signed By: (b)(2)

UNCLASSIFIED

Darren:

Thanks for the update. Will stand-by.

Gina

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

From: Irvine, Darren CIV WHS/ESD
Sent: Thursday, January 14, 2010 3:02 PM
To: Meiners, Regina Mrs OSD ODAM
Cc: Ingrodi, George Mr OSD ODAM; Glassner, Craig SES WHS/ESD; Kammer, William CIV WHS/ESD
Subject: 08-A-1835

Hello Regina,

Reference the FOIA appeal we spoke about Monday. (b)(5)

(b)(5)
(b)(5) Will come back to you at a later date on this one.

Regards,

Darren Irvine
Assistant Director for Programs
Executive Services Directorate
Washington Headquarters Services

(b)(2)

JAN 14 2010

Will,
We'll discuss
this one.

D

Irvine, Darren CIV WHS/ESD

From: Irvine, Darren CIV WHS/ESD
Sent: Tuesday, January 12, 2010 7:35 AM
To: Kammer, William CIV WHS/ESD
Subject: 08-A-1835
Signed By: (b)(2)

Will,

(b)(5)



Darren Irvine
Assistant Director for Programs
Executive Services Directorate
Washington Headquarters Services

(b)(2)

Hold for response

HB
1/4

DA&M/WHs STAFF SUMMARY SHEET						
	TO	ACTION	SIGNATURE AND DATE	TO	ACTION	SIGNATURE AND DATE
1	FOID Chief	COORD	<i>Will Hammer</i> 30 Dec 09	CCS	LOG IN	<i>W 1.7</i>
2	AD Programs	COORD	<i>Jim</i> JAN 06 2010	CCS	LOG OUT	<i>Jim 1/7</i>
3	DIR ESD	COORD	<i>e 6 Jan 10</i>	COR	REV	SIGN HERE
4	DDA&M	SIGN		7. DISPOSITION		
5						
6						
8. ACTION OFFICER			9. OFFICE SYMBOL		10. TELEPHONE	11. CONTROL NUMBER
(b)(6)			DFOIPO		588-6834	08-A-1835
12. SUBJECT						13. DATE
Freedom of Information Act (FOIA) Appeal – Mr. Scott Hodes						12/24/09
14. SUMMARY						
<p>1. On September 19, 2008, Mr. Scott Hodes, on behalf of Mr. Mike Williams, sent a FOIA request to OFOI for a copy of the complete transcript of the Air Threat Conference Call on September 11, 2001 (Tab A).</p> <p>2. On March 24, 2009, OFOI responded to Mr. Hodes with a full denial (Tab B).</p> <p>3. On March 31, 2009, Mr. Hodes appealed the full denial to DFOIPO (Tab C).</p> <p>4. On April 15, 2009, and December 23, 2009, DFOIPO asked the Office of General Counsel (OGC) to conduct another review of the document previously denied in its entirety. On April 20, 2009, and December 23, 2009, OGC (b)(5)</p> <p>(b)(5)</p>						
RECOMMENDATION						
5. (b)(5)						
<i>James P. Hogan</i> James P. Hogan Chief, Defense Freedom of Information Policy Office				5 Tabs as described above		
				JAN 06 2010		
				Craig/Regina, (b)(5)		
				Darren		

TAB A

SCOTT A. HODES, ATTORNEY AT LAW

(b)(6)

MEMBER DC AND MD BARS

(301) 404-0502

(b)(6)

September 19, 2008

OSD/JS FOIA Request Service Center
Office of Freedom of Information
1155 Defense Pentagon
Washington, D.C. 20301-1155

Via Facsimile

FOIA Request

Dear FOIA Officer:

This is a request on behalf of my client, journalist Mike Williams pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552.

Mr. Williams seeks a copy of the complete transcript of the Air Threat Conference Call that reportedly started in the Pentagon at 9:37 a.m. on September 11, 2001 and lasted for more than eight hours. This conference call is referenced in the report of the 9/11 Commission at Chapter 1, page 37. The transcript is described as "DOD transcript, Air Threat Conference Call, Sept. 11, 2001" throughout the reports footnotes, including 191, 194 and 195 for Chapter 1.

Mr. Williams seeks a fee waiver. Initially, there is great public interest in the subject of his request (the events of 9/11). Further, Mr. Williams is a working journalist, who writes columns for a number of monthly publications such as .net (www.netmagazine.co.uk), PC Plus (www.pcplus.co.uk), Windows Vista Magazine (www.windowstviamagazine.com), PCW (www.pcw.co.uk) and Computeractive (www.computeractive.co.uk). More importantly, Mr. Williams maintains a website, www.911myths.com, that points out flaws in 9/11 conspiracy theories. Thus, Mr. Williams is a working writer, who will analyze the requested information and has the means to disseminate the information and his analysis.

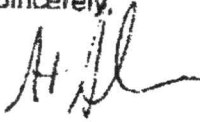
Please acknowledge that you have received this letter. If you need any further

• Page 2

September 19, 2008

information pertaining to this request, please contact me at your convenience. Thank you for your time and consideration in this matter.

Sincerely,



Scott A. Hodes

TAB B



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

Ref: 08-F-1835

Mr. Scott A. Hodes

(b)(6)

24 MAR 2009

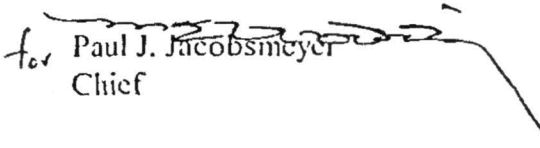
Dear Mr. Hodes:

This is the final response to your Freedom of Information Act request dated September 19, 2008, for "a copy of the complete transcript of the Air Threat Conference Call that reportedly started in the Pentagon at 9:37a.m. on September 11, 2001 and lasted for more than eight hours."

A search of the records systems maintained by the Department of Defense (DoD), Office of the General Counsel (OGC), located one document responsive to your request. Mr. Michael E. Reheuser, an Initial Denial Authority for the DoD, OGC, has determined that the document, totaling 182 pages, is exempt from release in its entirety pursuant to pursuant to 5 U.S.C. § 552(b)(1), which pertains to information that is properly classified in the interest of national security pursuant to Executive Order 12958, as amended, section 1.4(a) which concerns military plans, weapons, or operations, (c), which concerns intelligence activities of the United States, intelligence sources or methods, or cryptology, and (g) which concerns vulnerabilities or capability of systems, installations, infrastructures, projects, plans, or protection services relating to the national security, which includes defense against transnational terrorism.

If you are not satisfied with this action, you may appeal to the appellate authority, the Director of Administration and Management, Office of the Secretary of Defense, by writing directly to the Defense Freedom of Information Policy Office, Attn: Mr. James Hogan, 1155 Defense Pentagon, Washington, D.C. 20301-1155. Your appeal should be postmarked within 60 calendar days of the date of this letter, should cite to case number 08-F-1835, and should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

for 
Paul J. Jacobsmeier
Chief

TAB C

08-A-1835-A

March 31, 2009

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

RE: FOIA Request 08-F-1835

Dear Mr. Hogan:

This is an appeal of the decision dated March 24, 2009, of Paul J. Jacobsmeyer, Chief, Office of Freedom of Information, Department of Defense, on my client, Mike Williams' request for records concerning the Air Threat Conference Call that reportedly started in the Pentagon at 9:37 a.m. on September 11, 2001 and lasted for more than eight hours.

By letter dated September 19, 2008, I submitted a Freedom of Information Act ("FOIA") request on behalf of Mr. Williams for the complete transcript of the Air Threat Conference Call that reportedly started in the Pentagon at 9:37 a.m. on September 11, 2001 and lasted for more than eight hours.

By letter dated March 24, 2009, Mr. Jacobsmeyer denied this request in full. He indicated that 182 pages were located that the document was withheld in its entirety pursuant to FOIA exemption 1. Mr. Jacobsmeyer stated that this information was classified pursuant to Executive Order 12958 sections 1.4(a), 1.4(c) and 1.4(g).

Mr. Williams appeals the withholding of responsive records in this matter. Mr. Williams believes that even if some of the material may be properly classified that there are portions of the document that is not classifiable and should be segregated and released to him.

A 911 Commission document indicates that only a "relatively small subset of the document" . . . "discusses particularly sensitive matters." August 22, 2003 Letter from Daniel Levin, Department of Justice to Daniel Zelikow, Executive Director, National Commission on Terrorist Attacks Upon the United States. Further, other information from the 911 Commission indicates that material in the transcript has been made publicly available. As example, at 0958 Myers recommended evacuating Chicago's Sears Tower; Winfield took over the conference 48 minutes into the call; NORAD asked that the FAA be on the call, that United Flight 93 was mentioned for the first time at 10:09 when call participants were told that the flight was "20 minutes out"; that at 10:02 there was a report of an incoming target "25 minutes out"; and

March 31, 2009

finally that there were questions about whether Andrews Air Force Base had been contacted.

Thus, in light of the historical significance of this document and the well documented positions of President Obama and Attorney General Holder on transparency, my client believes that this document should be reviewed for possible declassification and segregation of responsive information. The times, and speakers on the phone call would cause no harm to national security and could be declassified and released. For instance it is public knowledge that then Defense Secretary Rumsfeld, former Vice President Cheney, General Richard Myers ("Myers") and Montague Winfield ("Winfield") participated in the call. Additionally, the publicly available information described above should also be declassified and released.

Finally, I note that embarrassment to the government is not a proper reason for classification. If any material in the transcript was classified only because it would embarrass someone, it is not properly classified.

Thus, I ask that you review the classification of this document de novo and release all segregable non-classified information.

Thank you for your time and consideration. If you need any further information pertaining to this appeal, feel free to contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Hodes', with a stylized flourish extending to the right.

Scott A. Hodes

TAB D

Bell, Michael CIV WHS/ESD

From: (b)(6) DoD OGC
Sent: Monday, April 20, 2009 7:50 AM
To: Bell, Michael CIV WHS/ESD
Cc: (b)(6) DoD OGC
Subject: FW: FOIA Appeal Air Threat Conference Call from 9/11
Attachments: Hodes Appeal and Docs (08-A-1835).pdf
Signed By: (b)(2),(b)(6)

Mike

(b)(5)

Thanks.

(b)(6)

From: (b)(6) DoD OGC
Sent: Wednesday, April 15, 2009 10:52
To: (b)(6) DoD OGC
Subject: FW: FOIA Appeal Air Threat Conference Call from 9/11

FYI.

From: Bell, Michael CIV WHS/ESD [mailto:(b)(2)]
Sent: Wednesday, April 15, 2009 10:25 AM
To: (b)(6) DoD OGC
Cc: (b)(6)
Subject: FOIA Appeal Air Threat Conference Call from 9/11

(b)(6)

For FOIA request 08-F-1835, OGC denied the Air Threat Conference Call from 9/11 in its entirety. We have a log saying it is TS/SCI. So we don't get into the confusion as before when we requested an SCI doc, what program is it so I can be sure that I am read on to it?

Also, it was withheld in its entirety by Mike. (b)(6)

I've attached all the relevant documents that I have. If you have any questions, please let me know.

Mike

Michael C. Bell

FOIA Appeals Team Chief

Defense Freedom of Information Policy Office

(b)(6)

From: (b)(6) DoD OGC
Sent: Wednesday, December 23, 2009 2:40 PM
To: (b)(6)
Subject: RE: 08-A-1835 9/11 AIR THREAT CONFERENCE CALL
Signed By: (b)(2),(b)(6)

(b)(6)

(b)(5)

Thanks.

(b)(6)

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

From: (b)(6)
Sent: Wednesday, December 23, 2009 14:35
To: (b)(6) DoD OGC
Subject: 08-A-1835 9/11 AIR THREAT CONFERENCE CALL

(b)(6)

See the attached file. (b)(5)

(b)(2),(b)(6)

<<...>>



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

Ref: 08-A-1835

ADMINISTRATION AND
MANAGEMENT

Mr. Scott Hodes
Attorney at Law
P.O. Box 42002
Washington, DC 20015

Dear Mr. Hodes:

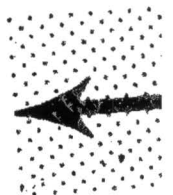
This responds to your March 31, 2009, Freedom of Information Act appeal. You appealed the full denial of the complete transcript of the Air Threat Conference Call on September 11, 2001.

(b)(5)

A large rectangular area of the document is completely redacted with a solid black fill, covering the majority of the lower half of the page.

Sincerely,

Regina F. Meiners
Acting Deputy Director



(b)(6)

From: (b)(6)
Sent: Wednesday, January 06, 2010 3:20 PM
To: Irvine, Darren CIV WHS/ESD
Subject: FW: 08-A-1835 9/11 AIR THREAT CONFERENCE CALL
Signed By: (b)(2),(b)(6)

Sir,

(b)(5)

v/r

(b)(6)

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

From: Reheuser, Michael, Mr, DoD OGC
Sent: Wednesday, January 06, 2010 2:56 PM
To: Cormier, Nicholas CTR WHS/ESD MTI
Subject: RE: 08-A-1835 9/11 AIR THREAT CONFERENCE CALL

(b)(6)

The material is covered by a Special Access Program that was verified by the Joint Staff.

Thanks.

(b)(6)

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

From: (b)(6)
Sent: Wednesday, January 06, 2010 10:31
To: (b)(6) DoD OGC
Subject: RE: 08-A-1835 9/11 AIR THREAT CONFERENCE CALL

(b)(6)

Sorry to bother you with this case again, (b)(5)

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

From: (b)(6) DoD OGC
Sent: Wednesday, December 23, 2009 2:40 PM
To: (b)(6)
Subject: RE: 08-A-1835 9/11 AIR THREAT CONFERENCE CALL

(b)(6)

(b)(5)

Thanks.

(b)(6)

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

From: (b)(6)
Sent: Wednesday, December 23, 2009 14:35
To: (b)(6) DoD OGC
Subject: 08-A-1835 9/11 AIR THREAT CONFERENCE CALL

(b)(6)

See the attached file. (b)(5)

(b)(5)

(b)(2),(b)(6)

<<...>>

(b)(6)

From: (b)(6)
Sent: Wednesday, December 23, 2009 11:12 AM
To: 'Scott Hodes'
Subject: FW: Appeal status 08-A-1835
Signed By: (b)(2),(b)(6)

Mr. Hodes,
Not much to tell you on 08-A-1835 other than that our office will continue to process your appeal in accordance with the FOIA. Jim Hogan, Chief, Defense Freedom of Information Policy Office, sends his best.

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

From: (b)(6)
Sent: Tuesday, December 22, 2009 2:38 PM
To: 'Scott Hodes'
Subject: RE: Appeal status

Mr. Hodes,
Sorry for the late reply. I will give you an update in short time.

(b)(2),(b)(6)

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

From: Scott Hodes [mailto:(b)(6)]
Sent: Thursday, December 17, 2009 2:47 PM
To: (b)(6)
Subject: Appeal status

I'm checking on the status of appeal 08-A-1835, the appeal was filed on March 31, 2009.

Thanks--

Scott Hodes

(b)(6)

(b)(6)

From: Bell, Michael CIV WHS/ESD
Sent: Wednesday, April 15, 2009 11:02 AM
To: (b)(6)
Subject: FW: FOIA Appeal Air Threat Conference Call from 9/11
Signed By: (b)(2)

FYI

Michael C. Bell
FOIA Appeals Team Chief
Defense Freedom of Information Policy Office
(b)(2)

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

From: (b)(6) DoD OGC
Sent: Wednesday, April 15, 2009 10:47 AM
To: Bell, Michael CIV WHS/ESD
Subject: RE: FOIA Appeal Air Threat Conference Call from 9/11

Hi Mike, to my knowledge the ATC is classified TS/SCI only. I'll check with (b)(6) about the review.

(b)(6)

From: Bell, Michael CIV WHS/ESD [mailto:(b)(2)]
Sent: Wednesday, April 15, 2009 10:25 AM
To: (b)(6) DoD OGC
Cc: (b)(6)
Subject: FOIA Appeal Air Threat Conference Call from 9/11

(b)(6)

For FOIA request 08-F-1835, OGC denied the Air Threat Conference Call from 9/11 in its entirety. We have a log saying it is TS/SCI. So we don't get into the confusion as before when we requested an SCI doc, what program is it so I can be sure that I am read on to it?

Also, it was withheld in its entirety by Mike. (b)(5)

I've attached all the relevant documents that I have. If you have any questions, please let me know.

Mike

Michael C. Bell

FOIA Appeals Team Chief



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

15 APR 2009

Ref: 08-A-1835

Mr. Scott A. Hodes

(b)(6)

Dear Mr. Hodes:

This is in response to your March 31, 2009, Freedom of Information Act (FOIA) appeal.

Due to an extremely heavy FOIA workload, we are unable to complete your appeal within the statutory time requirement. In fairness to the general public, we make every effort to treat all requesters equally. Accordingly, responses are made on a first-in, first-out, easy-hard basis, and controlled in response queues. When the appellate review of your case is complete, you will be notified by the appellate authority, the Deputy Director of Administration and Management, Office of the Secretary of Defense, of the final decision. You may direct any questions concerning this appeal to (b)(2),(b)(6)

(b)(2),(b)(6)

Sincerely,

for
James P. Hogan
Chief

March 31, 2009

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

RE: FOIA Request 08-F-1835

Dear Mr. Hogan:

This is an appeal of the decision dated March 24, 2009, of Paul J. Jacobsmeyer, Chief, Office of Freedom of Information, Department of Defense, on my client, Mike Williams' request for records concerning the Air Threat Conference Call that reportedly started in the Pentagon at 9:37 a.m. on September 11, 2001 and lasted for more than eight hours.

By letter dated September 19, 2008, I submitted a Freedom of Information Act ("FOIA") request on behalf of Mr. Williams for the complete transcript of the Air Threat Conference Call that reportedly started in the Pentagon at 9:37 a.m. on September 11, 2001 and lasted for more than eight hours.

By letter dated March 24, 2009, Mr. Jacobsmeyer denied this request in full. He indicated that 182 pages were located that the document was withheld in its entirety pursuant to FOIA exemption 1. Mr. Jacobsmeyer stated that this information was classified pursuant to Executive Order 12958 sections 1.4(a), 1.4(c) and 1.4(g).

Mr. Williams appeals the withholding of responsive records in this matter. Mr. Williams believes that even if some of the material may be properly classified that there are portions of the document that is not classifiable and should be segregated and released to him.

A 911 Commission document indicates that only a "relatively small subset of the document" . . . "discusses particularly sensitive matters." August 22, 2003 Letter from Daniel Levin, Department of Justice to Daniel Zelikow, Executive Director, National Commission on Terrorist Attacks Upon the United States. Further, other information from the 911 Commission indicates that material in the transcript has been made publicly available. As example, at 0958 Myers recommended evacuating Chicago's Sears Tower; Winfield took over the conference 48 minutes into the call; NORAD asked that the FAA be on the call, that United Flight 93 was mentioned for the first time at 10:09 when call participants were told that the flight was "20 minutes out"; that at 10:02 there was a report of an incoming target "25 minutes out"; and

March 31, 2009

finally that there were questions about whether Andrews Air Force Base had been contacted.

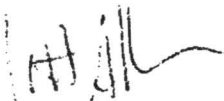
Thus, in light of the historical significance of this document and the well documented positions of President Obama and Attorney General Holder on transparency, my client believes that this document should be reviewed for possible declassification and segregation of responsive information. The times, and speakers on the phone call would cause no harm to national security and could be declassified and released. For instance it is public knowledge that then Defense Secretary Rumsfeld, former Vice President Cheney, General Richard Myers ("Myers") and Montague Winfield ("Winfield") participated in the call. Additionally, the publicly available information described above should also be declassified and released.

Finally, I note that embarrassment to the government is not a proper reason for classification. If any material in the transcript was classified only because it would embarrass someone, it is not properly classified.

Thus, I ask that you review the classification of this document de novo and release all segregable non-classified information.

Thank you for your time and consideration. If you need any further information pertaining to this appeal, feel free to contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott A. Hodes", with a stylized flourish at the end.

Scott A. Hodes



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

Ref: 08-F-1835

Mr. Scott A. Hodes

(b)(6)

24 MAR 2009

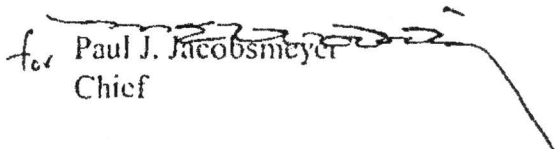
Dear Mr. Hodes:

This is the final response to your Freedom of Information Act request dated September 19, 2008, for "a copy of the complete transcript of the Air Threat Conference Call that reportedly started in the Pentagon at 9:37a.m. on September 11, 2001 and lasted for more than eight hours."

A search of the records systems maintained by the Department of Defense (DoD), Office of the General Counsel (OGC), located one document responsive to your request. Mr. Michael E. Reheuser, an Initial Denial Authority for the DoD, OGC, has determined that the document, totaling 182 pages, is exempt from release in its entirety pursuant to pursuant to 5 U.S.C. § 552(b)(1), which pertains to information that is properly classified in the interest of national security pursuant to Executive Order 12958, as amended, section 1.4(a) which concerns military plans, weapons, or operations, (c), which concerns intelligence activities of the United States, intelligence sources or methods, or cryptology, and (g) which concerns vulnerabilities or capability of systems, installations, infrastructures, projects, plans, or protection services relating to the national security, which includes defense against transnational terrorism.

If you are not satisfied with this action, you may appeal to the appellate authority, the Director of Administration and Management, Office of the Secretary of Defense, by writing directly to the Defense Freedom of Information Policy Office, Attn: Mr. James Hogan, 1155 Defense Pentagon, Washington, D.C. 20301-1155. Your appeal should be postmarked within 60 calendar days of the date of this letter, should cite to case number 08-F-1835, and should be clearly marked "Freedom of Information Act Appeal."

Sincerely,


for Paul J. Jacobsmeier
Chief

TEAM C CASE#: 08-F-1835

ACTION OFFICER:

(b)(6)

FINAL ACTION

GRANT	DENIAL	NO RECORD
PARTIAL	TRANSFER	REFERRAL
WITHDRAWAL	ADMIN CLOSE-OUT	

CASE HISTORY

- ACTION TASKED TO (INCLUDE REFERRALS) -

Office of General Counsel (OGC)

- RESPONSES RECEIVED -

1 Responsive Document Located "DOD transcript, Air Threat Conference Call, Sept. 11, 2001"

- COMMENTS (MODIFICATIONS, MFR, ETC) -

Using OGC's 20070719 Form 472, signed by Mr. Michael Reheuser, denying-in-full responsive document.

TEAM CHIEF COMMENTS:

WILL DOCUMENTS RELEASED IN THIS FOIA CASE BE POSTED IN THE FOIA READING ROOM?

YES _____ ACTION OFFICER PROVIDE A COPY OF THE RELEASED DOCUMENT(S) ON CD TO THE TEAM CHIEF

NO X NO FURTHER ACTION

[Signature] 23 MAR 2009

(b)(6)

From: (b)(6) DoD OGC
Sent: Tuesday, March 24, 2009 9:35 AM
To: (b)(6)
Subject: RE: 08-F-1835
Signed By: (b)(2),(b)(6)

Thanks, (b)(6)

(b)(6)

From: (b)(2),(b)(6)
Sent: Tuesday, March 24, 2009 09:29
To: (b)(6) DoD OGC
Cc: (b)(6)
Subject: 08-F-1835

(b)(6)

Please close-out FOIA case 08-F-1835 on your end. The request was from Attorney Scott A. Hodes on behalf of journalist Mike Williams seeking the complete transcript of the Air Threat Conference Call on 9/11.

I used your 20070719 Form 472 for FOIA case 05-F-0204. That case had 15 documents that were all Denied-in-Full (b1). Document 15 of that matrix was the "Air Threat Conference Call."

Cheers,

(b)(2),(b)(6)

Department of Defense *

Office of Freedom of Information *

1155 Defense Pentagon *

Washington, DC 20301-1155 *

09-F-1535

(b)(6)

From: Wahling, Mary L. CIV WHS/ESD
Sent: Thursday, October 09, 2008 2:05 PM
To: (b)(6)
Subject: FW: 9-11 Commission Documents
Signed By: (b)(2)

For your information.

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

From: (b)(6) DoD OGC
Sent: Thursday, October 09, 2008 1:45 PM
To: (b)(6) DoD OGC; Wahling, Mary L. CIV WHS/ESD
Cc: (b)(6) DoD OGC
Subject: RE: 9-11 Commission Documents

(b)(6)

(b)(5)

(b)(6)

From: (b)(6) DoD OGC
Sent: Thursday, October 09, 2008 7:52 AM
To: Wahling, Mary L. CIV WHS/ESD
Cc: (b)(6) DoD OGC; (b)(6) DoD OGC
Subject: RE: 9-11 Commission Documents

Mary
I will prepare the 472 indicating that this material will be withheld under
b1.

(b)(6)

From: Wahling, Mary L. CIV WHS/ESD [mailto:(b)(2)]
Sent: Friday, September 26, 2008 16:36
To: (b)(6) DoD OGC
Cc: (b)(6) DoD OGC
Subject: 9-11 Commission Documents

The attached FOIA request is asking for a transcript which is footnoted in the 9-11 Report. Before I engage with the requester's attorney (Scott Hodes) on whether we should consider this as a request from the media, do you know if the search for this document would exceed 2 hours? <<...>>

Wahling, Mary L. CIV WHS/ESD

From: (b)(6) DoD OGC
Sent: Monday, September 29, 2008 11:35 AM
To: Wahling, Mary L. CIV WHS/ESD; (b)(6) DoD OGC; (b)(6) DoD OGC
Cc: (b)(6) DoD OGC
Subject: RE: 9-11 Commission Documents
Signed By: (b)(2),(b)(6)

(b)(6)

Do you know if we have a copy of the Air Threat Conference transcript that we can locate quickly.

(b)(6)

From: Wahling, Mary L. CIV WHS/ESD [mailto:(b)(2)]
Sent: Friday, September 26, 2008 4:36 PM
To: (b)(6) DoD OGC
Cc: (b)(6) DoD OGC
Subject: 9-11 Commission Documents

The attached FOIA request is asking for a transcript which is footnoted in the 9-11 Report. Before I engage with the requester's attorney (Scott Hodes) on whether we should consider this as a request from the media, do you know if the search for this document would exceed 2 hours? <<...>>

(b)(6)

(b)(6)

will have
check the 9-11 docs in their
SKIF. He thinks this may be
a conference call between FAA +
DOD, may have NSC involvement

SCOTT A. HODES, ATTORNEY AT LAW

(b)(6)

MEMBER DC AND MD BARS

(b)(6)

September 19, 2008

OSD/JS FOIA Request Service Center
Office of Freedom of Information
1155 Defense Pentagon
Washington, D.C. 20301-1155

Via Facsimile

FOIA Request

Dear FOIA Officer:

This is a request on behalf of my client, journalist Mike Williams pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552.

Mr. Williams seeks a copy of the complete transcript of the Air Threat Conference Call that reportedly started in the Pentagon at 9:37 a.m. on September 11, 2001 and lasted for more than eight hours. This conference call is referenced in the report of the 9/11 Commission at Chapter 1, page 37. The transcript is described as "DOD transcript, Air Threat Conference Call, Sept. 11, 2001" throughout the reports footnotes, including 191, 194 and 195 for Chapter 1.

Mr. Williams seeks a fee waiver. Initially, there is great public interest in the subject of his request (the events of 9/11). Further, Mr. Williams is a working journalist, who writes columns for a number of monthly publications such as .net (www.netmagazine.co.uk), PC Plus (www.pcplus.co.uk), Windows Vista Magazine (www.windowstvismagazine.com), PCW (www.pcw.co.uk) and Computeractive (www.computeractive.co.uk). More importantly, Mr. Williams maintains a website, www.911myths.com, that points out flaws in 9/11 conspiracy theories. Thus, Mr. Williams is a working writer, who will analyze the requested information and has the means to disseminate the information and his analysis.

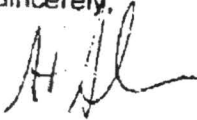
Please acknowledge that you have received this letter. If you need any further

• Page 2

September 19, 2008

information pertaining to this request, please contact me at your convenience. Thank you for your time and consideration in this matter.

Sincerely,



Scott A. Hodes