

Frank Vera III
P.O. Box 1313
Jamestown, CA 95327-1313

Phone: [REDACTED]
[REDACTED]
www.GeorgeAFB.Info

4 December 2014

EFax: 571-256-3110@fax.hqda.pentagon.mil

Headquarters Air Force/AAL (FOIA)
1000 Air Force Pentagon
Washington, DC 20330-1000
Phone: (703) 692-2735

FOIA on FOIA

Dear FOIA Officer:

Please process this request pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a.

Per instructions at <http://www.foia.af.mil/>, I am filing this request with Headquarters Air Force/AAL (FOIA) as I do not know the location or custodian of the records.

1. **I am requesting a complete and unredacted copy and/or printout of the records contained in the administrative processing file/folder associated with the following FOIA Appeal (Number 2012-00087-A) See page 4**
2. This request is not meant to be exclusive of any other records that, although not specifically requested, have a reasonable relationship to the subject matter of this request. If you, or your office, have destroyed or decide to withhold any documents that could be reasonably construed to be responsive to this request, I ask that you indicate this fact and the reasons in your response.

Definition of Record

The term "record(s)" includes, *but is not limited to*: 1) all email communications to or from any individual within your agency; 2) memoranda; 3) inter-agency communications; 4) sound recordings; 5) tape recordings; 6) video or film recordings; 7) photographs; 8) notes; 9) notebooks; 10) indices; 11) jottings; 12) message slips; 13) letters or correspondence; 14) telexes; 15) telegrams; 16) facsimile transmissions; 17) statements; 18) policies; 19) manuals or binders; 20) books; 21) handbooks; 22) business records; 23) personnel records; 24) ledgers; 25) notices; 26) warnings; 27) affidavits; 28) declarations under penalty of perjury; 29) unsworn statements; 30) reports; 31) diaries; 32) calendars, regardless of whether they are handwritten, printed, typed, mechanically or electronically recorded or reproduced on any medium capable of conveying an image, such as paper, CDs, DVDs, or diskettes.

Record Search

When processing this request, please note that the D.C. Circuit has previously held that agencies have a duty to construe the subject material of FOIA requests *liberally* to ensure responsive records are not overlooked. *See Nation Magazine, Washington Bureau v. U.S. Customs Service*, 71 F.3d 885, 890 (D.C. Cir. 1995).

In line with the guidance issued by the Department of Justice (“DOJ”) on 9 September 2008 to all federal agencies with records subject to FOIA, agency records that are currently in the possession of a U.S. Government contractor for purposes of records management remain subject to FOIA. Please ensure that your search complies with this clarification on the effect of Section 9 of the OPEN Government Act of 2007 of the definition of a “record” for purposes of FOIA. In addition, the Air Force should not interpret this request to exclude correspondence sent to outside third parties. Please also consider this letter an affirmative rejection of any limitation of your search to Air Force originated records.

Redaction

In excising material, please “black out” rather than “white out” or “cut out.” Additionally, any reasonably segregable portion of a responsive record must be provided to me after redaction of any allegedly exempt material, as the law requires. If this request is denied, in full or in part, please cite the exemptions pursuant to 5 U.S.C. § 552(b) that justify the denial.

If an exemption applies, however, please consider exercising the agency’s discretionary release powers to disclose the information. I reserve the right to appeal any decision to withhold information.

Record Format

I request that any documents or records produced in response to this request be provided in electronic (soft-copy) form wherever possible. Acceptable formats are .pdf, .doc, docx, .jpg, .gif, .tif. Please provide soft-copy records by email or on a CD if email is not feasible.

Fees

I agree to pay all applicable fees up to \$25.00 for processing this FOIA/PA request. Please advise me in advance if the estimated charges are to exceed \$25.00.

If you wish to discuss this request, please do not hesitate to contact me at 209-984-5517.

Thank you for processing this FOIA/Privacy Act request.

Sincerely,

Frank Vera III

Physical address: 

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above (requester) and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. section 1001 by a fine of not more than \$10,000.00 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than \$5,000.00.



Frank Vera III



Date

Attachments:

Page 4 - Response to my FOIA Appeal (Number 2012-00087-A) dated 6 October 2014



DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

OFFICE OF THE GENERAL COUNSEL

OCT - 6 2014

SAF/GCA
1740 Air Force Pentagon
Washington DC 20330-1740

Frank Vera III
P.O. Box 1313
Jamestown, CA95327-1313

Dear Mr. Vera

This letter replies to your 4 April 2012 appeal (Number 2012-00087-A) under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. I have been delegated the responsibility to conduct the Office of the Secretary of the Air Force review in your case. I have considered your appeal and determined that it should be denied.

Your 3 January 2012 request asked for the same information for which you had asked in two items of your 3 January 2011 request, i.e. an investigation by SA [REDACTED] of your possible exposure to CBRN material and possible CBRN material at George AFB, CA. The slight differences in the wording of the two requests are insufficient to change this conclusion. Thus your February 2012 request meets the standard of DOD 5400.7-R AFMAN 33-302, Freedom of Information Act Program, paragraph C5.2.2.8. It provides that one reason for not complying with a request is that the *"request is a duplicate request (e.g., a requester asks for the same information more than once). This includes identical requests received via different means (e.g., electronic mail, facsimile, mail, courier) at the same or different times."* (Italics in original.)

That you submitted the requests to different offices does not change the fact that you asked for the same information. Likewise, the limited additional new information from Mr. [REDACTED] relating to his recollection of the investigation, his former AFOSI Detachment and supervisor, and his current contact information did not change the substance of your two requests with respect to the information for which you asked.

This constitutes the final Air Force action on your appeal. The Freedom of Information Act, 5 U.S.C. § 552, provides for judicial review of this determination.

Sincerely

David L. Thomas
Assistant Deputy General Counsel
(Fiscal, Ethics and Administrative Law)