
From: lthweatt@terrythweatt.com
Sent: Wednesday, August 06, 2014 9:18 PM
To: foiarequests
Subject: FOIA - Contact Us

Your form has been sent to the FOIA Office. Thank you!

Date: 8/06/2014
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Your Request: I request copies of all records and final reports germane to the IG complaints submitted by Major James Weirick, USMC pertaining to malfeasance by General James F. Amos, the Commandant of the Marine Corps, his subordinate officers and commanders, and his staff at Headquarters, U.S. Marine Corps. Specifically, Major Weirick submitted 4 separate complaints, each based on a unique allegation of malfeasance: (1) Unlawful command influence ("UCI") by the Commandant; (2) Improper removal of Major Conway from the promotion/command hold list based on nepotism; (3) improper classification of certain records pertaining to the investigation of the V32 "Taliban urination" cases; and (4) whistleblower reprisal against Major Weirick. I am not asking for any records pertaining to improper classification, as I understand that review was outsourced to another office (ISOO), which provided a written justification for its review decision. Rather, I am asking for all records pertaining to your review of whether UCI occurred, Major Conway's improper restoration to the promotion and command lists, and whistleblower reprisal. I request that you sever my request into three component parts corresponding to each allegation, treating each request separately, as though I had submitted three separate requests, so that your record disclosure on any individual issue is not delayed by the staff processes required to release, redact, or withhold the others. In order of priority, I also request that you prioritize the UCI investigation, followed by the whistleblower reprisal component, followed by the portion of the investigation pertaining to Major Conway. Please provide them in electronic format as they are ready for release, to lthweatt@terrythweatt.com. I do not require paper records. I understand that DODIG has already expressed to Congressman Walter Jones' staff an unwillingness to provide records, in particular, relating to the UCI issue, citing the Privacy Act. Be advised that if DODIG withholds ENTIRE RECORDS based on the Privacy Act, this will form the basis for an immediate administrative appeal, followed by a prompt, well-publicized judicial review of any denial. As you certainly know, or could learn by consulting with your administrative law counsel, FOIA permits an agency to withhold narrow categories of information, not whole records. With reference to the Privacy Act, DODIG appears to be relying on section (b)(6) of the FOIA, pasted below. Of course, a DODIG investigation report is not a "personnel file" within the meaning of the statute, making section (b)(6) inapplicable. If DODIG instead intends to rely on section (b)(7)(C), please note that DODIG reports such as this one are not compiled "for law enforcement purposes." First, the intent of the investigation was never to explore criminal prosecution against the Commandant of the Marine Corps. Second, even if the DODIG investigation report is loosely interpreted as a record compiled for law enforcement purposes, the Commandant of the Marine Corps, a public figure, cannot reasonably be held to have privacy interests in an examination of the ultra vires method in which he conducted his duties. Third, even if DODIG decides that section (b)(7)(C) applies, it cannot apply to the ENTIRE record, in light of the language at the end of section (b): "Any reasonably segregable portion of a record shall

be provided to any person requesting such record after deletion of the portions which are exempt under this subsection. The amount of information deleted shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption in this subsection under which the deletion is made. If technically feasible, the amount of the information deleted shall be indicated at the place in the record where such deletion is made." This means, of course, the agency must redact only that information that fits a category permitting withholding, and release the remainder of the record. In redaction and processing, as the President noted in his January 21, 2009 memorandum on openness in government, the presumption augurs in favor of timely disclosure:

http://www.whitehouse.gov/the_press_office/Freedom_of_Information_Act Applicable section of FOIA statute: (b) This section does not apply to matters that are-- (1)(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order; (2) related solely to the internal personnel rules and practices of an agency; (3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld; (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential; (5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency; (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; (7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual; (8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or (9) geological and geophysical information and data, including maps, concerning wells. Thank you for your attention to this matter. I look forward to your prompt response. Respectfully submitted, L. Lee Thweatt One Greenway Plaza, Suite 100 Houston, Texas 77046 (713) 600-4710 lthweatt@terrythweatt.com

Willingness to Pay: \$250.00

"I declare under penalty of perjury that I am L. Lee Thweatt and that the statements contained in this document are true and correct."