
Subject: Re: Tracking numbers, etc.
Date: Wednesday, December 23, 2020 at 3:22:18 PM Pacific Standard Time
From: Parker Yesko
To: Einhorn, Allison K CIV USN NAVY JAG WASH DC (USA)
Attachments: image001.png, image002.png, image003.png, image004.png

Okay, after the new year will work. If there's any way you could keep the tracking numbers separate for the separate requests, that would be super helpful.

Thanks and happy holidays!

--
Parker Yesko
Reporter | American Public Media
pyesko@apmreports.org
646-621-6611 (c)

APMreports.

From: "Einhorn, Allison K CIV USN NAVY JAG WASH DC (USA)" <allison.k.einhorn@navy.mil>
Date: Wednesday, December 23, 2020 at 12:47 PM
To: Parker Yesko <pyesko@apmreports.org>
Subject: RE: Tracking numbers, etc.

Hi Parker,

I will not be able to get the tracking number and acknowledgment letters before the holidays.

I would like to enter your request as one large request. It's a fairly large request and I need time to process the entire request.

I can give you a tracking number after the new year. I will start processing your request in its entirety next week.

V/r,

Allison

From: Parker Yesko <pyesko@apmreports.org>
Sent: Tuesday, December 22, 2020 6:45 PM
To: Einhorn, Allison K CIV USN NAVY JAG WASH DC (USA) <allison.k.einhorn@navy.mil>
Subject: [Non-DoD Source] Re: Tracking numbers, etc.

Hi Allison,

Would it be possible for you to send the tracking numbers and acknowledgement letters before the holiday?

Thanks!

Parker

--

Parker Yesko
Reporter | American Public Media
pyesko@apmreports.org
646-621-6611 (c)

APMreports.

From: "Einhorn, Allison K CIV USN NAVY JAG WASH DC (USA)" <allison.k.einhorn@navy.mil>
Date: Wednesday, December 9, 2020 at 3:59 PM
To: Parker Yesko <pyesko@apmreports.org>
Subject: RE: Tracking numbers, etc.

Did you submit your requests on FOIAonline?

I don't think I submitted the request myself. I don't think I am going to do individual numbers for each record.

V/r,

Allison

From: Parker Yesko <pyesko@apmreports.org>
Sent: Wednesday, December 9, 2020 6:57 PM
To: Einhorn, Allison K CIV USN NAVY JAG WASH DC (USA) <allison.k.einhorn@navy.mil>
Subject: [Non-DoD Source] Re: Tracking numbers, etc.

Tracking numbers would be super, thanks. Would it be possible to get an acknowledgement letter on at least the Haditha-related request?

Re: clemency, you're talking about the [Naval Clemency and Parole Board](#)?

--

Parker Yesko
Reporter | American Public Media
pyesko@apmreports.org
646-621-6611 (c)

APMreports.

From: "Einhorn, Allison K CIV USN NAVY JAG WASH DC (USA)" <allison.k.einhorn@navy.mil>
Date: Wednesday, December 9, 2020 at 3:36 PM
To: Parker Yesko <pyesko@apmreports.org>
Subject: RE: Tracking numbers, etc.

Hi Parker,

I know that I have your requests, I will have to look up the tracking numbers.

Typed signed letters may be hard to come by since we are mostly teleworking from home at this time.

The clemency board and parole board handle clemency petitions, it's out of my swim lane.

Respectfully,

Allison

From: Parker Yesko <pyesko@apmreports.org>

Sent: Wednesday, December 9, 2020 5:32 PM

To: Einhorn, Allison K CIV USN NAVY JAG WASH DC (USA) <allison.k.einhorn@navy.mil>

Subject: [Non-DoD Source] Tracking numbers, etc.

Hi Allison,

Hope you're well and that you'll be able to take some time off over the holidays.

I have couple housekeeping questions for you with regards to my FOIA requests:

- Could you please send me the tracking numbers for my 14 requests?
- Is it possible for you to also send official acknowledgment letters for each?
- Does the Navy JAG handle clemency petitions or have any records connected to clemency petitions for sailors/Marines convicted at court martial? If not, do you know what office does?

Thanks much!

Parker

--

Parker Yesko

Reporter | American Public Media

pyesko@apmreports.org

646-621-6611 (c)

APMreports.

Subject: RE: Tracking numbers, etc.
Date: Wednesday, January 27, 2021 at 7:50:00 AM Pacific Standard Time
From: Einhorn, Allison K CIV USN NAVY JAG WASH DC (USA)
To: Parker Yesko
Attachments: image001.png, image002.png, image003.png, image004.png, image005.png

Good morning Parker,

I will be in the office tomorrow and get you response on your request.

V/r,

Allison K. Einhorn
Office of the Judge Advocate General
Code 41, FOIA/PA Department Head
Work: 202-685-7064

FOR OFFICIAL USE ONLY / PRIVACY SENSITIVE. The information contained in this e-mail and/or accompanying documents was prepared by personnel of the Criminal Law Division, Office of the Judge Advocate General of the Navy and is intended for the exclusive use of the individuals to whom it is addressed. It may contain information that is pre-decisional, privileged or protected from release under the Privacy Act, FOIA or other applicable laws. Do not disseminate this e-mail, or its contents, to anyone who does not have an official need for access, or without the express consent of the sender. If you are not the intended recipient, you are on notice that copying, disclosure or any distribution of this message, in any form, is prohibited. Any misuse or unauthorized disclosure can result in both civil and criminal penalties.

From: Parker Yesko <pyesko@apmreports.org>
Sent: Tuesday, January 19, 2021 2:53 PM
To: Einhorn, Allison K CIV USN NAVY JAG WASH DC (USA) <allison.k.einhorn@navy.mil>
Subject: [Non-DoD Source] Re: Tracking numbers, etc.

Hi Allison,

Happy new year. Just checking back on those tracking numbers and acknowledgment letters.

Thanks!
Parker

--

Parker Yesko
Reporter | American Public Media
pyesko@apmreports.org
646-621-6611 (c)

APMreports.

VIA EMAIL

April 18, 2020

United States Marine Corps
Attn: Deanna James
FOIA/PA Section (ARSF)
3000 Marine Corps Pentagon
Washington, DC 20350-3000
hqmcfoia@usmc.mil

Dear Ms. James:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 et seq., APM Reports makes the following request for records.

Background

APM Reports is interested in obtaining records about Marines alleged to have committed war crimes in Afghanistan and Iraq during the global war on terror.

Specifically, APM reports is seeking records on the individual Marines listed below, including any records with the following information: 1) enlistment/commission date, 2) enlistment/commission location, 3) rank/grade, 4) list of all duty stations and unit assignments, 5) list of all deployments and overseas stations, 6) list of any awards, decorations, badges, licenses, special skills, qualifications and certificates, 7) performance reports, 8) details of any disciplinary citations or actions (including court-martials, non-judicial punishments and Page 11 administrative remarks/counseling entries), 9) record of discharge/separation (including date/type/location of separation, character of service, authority and reason for separation and reenlistment eligibility).

Requested Records

APM Reports requests that the U.S. Marine Corps produce the following records within 20 business days:

- 1) The Official Military Personnel File (OMPF), DD214, and Service Record Book (SRB) and/or Officer Qualification Record (OQR) of GySgt. Mario Madera-Rodriguez.
- 2) The OMPF, DD214, SRB and OQR of SSgt. Kevin Maxwell.
- 3) The OMPF, DD214, SRB and OQR of Sgt. Jose Luis Nazario.
- 4) The OMPF, DD214, SRB and OQR of Sgt. Ryan Weemer.
- 5) The OMPF, DD214, SRB and OQR of Sgt. Jermaine A. Nelson.
- 6) The OMPF, DD214, SRB and OQR of LtCol Jeffery R. Chessani.

Exhibit 11

- 7) The OMPF, DD214, SRB and OQR of Capt. Randy W. Stone.
- 8) The OMPF, DD214, SRB and OQR of Capt. Lucas M. McConnell.
- 9) The OMPF, DD214, SRB and OQR of 1st Lt. Andrew A. Grayson.
- 10) The OMPF, DD214, SRB and OQR of SSgt. Frank D. Wuterich.
- 11) The OMPF, DD214, SRB and OQR of Sgt. Sanick P. Dela Cruz.
- 12) The OMPF, DD214, SRB and OQR of LCpl. Justin L. Sharratt.
- 13) The OMPF, DD214, SRB and OQR of LCpl. Stephen B. Tatum.
- 14) The OMPF, DD214, SRB and OQR of LCpl. Humberto Mendoza.
- 15) The OMPF, DD214, SRB and OQR of Cpl. Hector Salinas.
- 16) The OMPF, DD214, SRB and OQR of LCpl. Miguel “T.J.” Terrazas (deceased).
- 17) The OMPF, DD214, SRB and OQR of LCpl. James Crossan.
- 18) The OMPF, DD214, SRB and OQR of LCpl. Salvador Guzman.
- 19) The OMPF, DD214, SRB and OQR of LCpl. Roel Ryan Briones.
- 20) The OMPF, DD214, SRB and OQR of LCpl. Andrew Wright.
- 21) The OMPF, DD214, SRB and OQR of Sgt. Lawrence G. Hutchins III.
- 22) The OMPF, DD214, SRB and OQR of Cpl. Trent D. Thomas.
- 23) The OMPF, DD214, SRB and OQR of Cpl. Marshall L. Magincalda.
- 24) The OMPF, DD214, SRB and OQR of Cpl. Tyler A. Jackson.
- 25) The OMPF, DD214, SRB and OQR of LCpl. Jerry E. Shumate Jr.
- 26) The OMPF, DD214, SRB and OQR of LCpl. Robert B. Pennington.
- 27) The OMPF, DD214, SRB and OQR of Pfc. John J. Jodka III.
- 28) The OMPF, DD214, SRB and OQR of 2nd Lt. Ilario Pantano.
- 29) The OMPF, DD214, SRB and OQR of Maj. Fred C. Galvin.
- 30) The OMPF, DD214, SRB and OQR of Capt. Vincent J. Noble.
- 31) The OMPF, DD214, SRB and OQR of GySgt. Joshua Negron.

- 32) The OMPF, DD214, SRB and OQR of GySgt. Daniel Draher.
- 33) The OMPF, DD214, SRB and OQR of Dustin Laurent Heard.
- 34) The OMPF, DD214, SRB and OQR of Evan Shawn Liberty.
- 35) The OMPF, DD214, SRB and OQR of Donald Wayne Ball.

If the U.S. Marine Corps withholds any records responsive to this request on the grounds that they are not subject to disclosure under FOIA, please inform us that you have withheld the records and on what basis. If the U.S. Marine Corps redacts the names of any individuals, please assign a number/alias to each individual.

APM Reports seeks all responsive records regardless of format, medium, or physical characteristics. In conducting your search, please understand the terms “record,” “document” and “information” in the broadest sense, to include any written, typed, recorded, graphic, printed or audio material of any kind. We seek all records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, email, facsimiles, telephone messages, voice mail messages, and transcripts, notes from meetings, meeting minutes, notes from interviews, telephone conversations or discussions. The request should include any attachments to these records. All materials should be included.

When possible, please provide responsive materials in electronic format. Please send any responsive material that must be delivered by mail to Parker Yesko, APM Reports, American Public Media, 480 Cedar St., St. Paul, MN 55101. If it will accelerate release of responsive records, please provide the responsive materials on a rolling basis.

Request for Fee Waiver and Expedited Processing

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii), APM Reports requests a waiver of fees associated with processing this request. This request is primarily and fundamentally not for commercial purposes. APM Reports’ parent company, American Public Media, is a non-profit 501(c)(3) and is the largest station-based public radio organization in the United States. American Public Media aims to inform the public on matters involving the operations of government. Its programming is carried on approximately 1,000 radio stations nationwide, reaching an audience of 20 million listeners every week. APM Reports’ podcasts have been downloaded over 50 million times, have won the George Polk Award and the George Foster Peabody Award and have been cited in briefs at the U.S. Supreme Court. Disclosure of the requested information is in the public interest because it is “likely to contribute significantly to public understanding of the operations or activities of the government.”

Moreover, there is a compelling need for expedited processing of this request as it is part of a newsgathering process on a timely matter of great public concern: reports of American troops participating in violent crimes overseas are gravely concerning. They undermine global confidence in American institutions and thus, the safety of Americans.

Accordingly, APM Reports qualifies for a fee waiver and expedited processing.

If you wish to discuss any aspect of this request, please don’t hesitate to contact me.

Sincerely,



Parker Yesko
Reporter, APM Reports
pyesko@apmreports.org
(651) 290-1537

Subject: Your FOIA Requests, DON-USMC-2020-006851 & -006852
Date: Tuesday, April 28, 2020 at 11:22:23 AM Central Daylight Time
From: Peters CIV Michael L <michael.l.peters3@usmc.mil>
To: 'pyesko@apmreports.org' <pyesko@apmreports.org>

Good afternoon, Ms. Yesko,

This e-mail acknowledges receipt of your FOIA requests and also addresses your expedited processing and fee waiver requests. Before we can approve a request for expedited processing, we would have to determine that there was a compelling need for the information, and it is the requester's burden to demonstrate this. "Compelling need" can mean either that (1) failure to obtain the records could reasonably be expected to pose an imminent threat to an individual's life or safety, or (2) the information is "urgently needed" and its value will be lost if not disseminated quickly.

Unfortunately, the basis you provided does not demonstrate the kind of compelling need required for us to place your request ahead of all the others that are pending. We must, therefore, deny your request for expedited processing. We are also denying your request for a fee waiver, but as a "media" requester, you would only be responsible for duplication costs. Since responsive records, if any, would be delivered electronically, we do not foresee any charges forthcoming.

You may consider this denial of a fee waiver and expedited processing to be adverse determinations that may be appealed to the Judge Advocate General (Code 14), 1322 Patterson Avenue SE, Suite 3000, Washington Navy Yard, DC 20374-5066. Since you have created an account in FOIAonline, you may submit an appeal directly within the web-based system. To do this, you would log in to your account, retrieve your original request, and then click on the "Create Appeal" tab in the left-hand column. The basic information from your request will be duplicated for you, and then you can type in the basis of your appeal. If you prefer to use regular mail, you may submit your appeal to the address above. Your appeal, if any, must be postmarked within 90 calendar days from the date of this correspondence and should include a statement indicating why you believe it should be granted. If sent by mail, we recommend that your letter and its envelope both bear the notation "Freedom of Information Act Appeal."

You also have the right to seek assistance and/or dispute resolution services from the Marine Corps FOIA Public Liaison, Ms. Sally Hughes, at hqmcfoia@usmc.mil or (703) 614-4008, and/or the Department of the Navy FOIA Public Liaison, Mr. Christopher Julka, at Christopher.a.julka@navy.mil or (703) 697-0031. You may also contact the Office of Government Information Services (OGIS) for assistance and/or dispute resolution at ogis@nara.gov or (877) 684-6448. For more information online about services provided by OGIS, please visit their website at <https://ogis.archives.gov>.

Please note that we are currently in a telework status due to the coronavirus (COVID-19) response efforts, and unfortunately, extremely short-staffed at the moment. These circumstances may cause delays, but be assured that we will do everything possible to minimize those and will respond as soon as we can. Be aware that, whenever a FOIA requester has not

received a determination within 20 working days from the date a request is perfected, they are entitled to challenge the delay to the Judge Advocate General (Code 14) at the address above.

As the analyst assigned to your request, if you should have any questions or concerns, please be sure to let me know.

Michael L. Peters
FOIA Analyst

Commandant of the Marine Corps (ARSF)
Headquarters US Marine Corps
3000 Marine Corps Pentagon Rm 2B289
Washington DC 20350-3000

FOIA/PA Phone: (703) 614-4008 DSN: 224
Fax: (703) 614-6287
FOIA Email: hqmcfoia@usmc.mil

FOR OFFICIAL USE ONLY - PRIVACY SENSITIVE: ANY MISUSE OR UNAUTHORIZED DISCLOSURE MAY RESULT IN CIVIL AND/OR CRIMINAL PENALTIES.

Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient (s) and may contain confidential and/or privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by e-mail and destroy any copies of the original message.

We value your comments please take time complete the Management Comment Card via the ICE Tool

http://ice.disa.mil/index.cfm?fa=card&service_provider_id=130985&site_id=341&dep=DoD

Subject: Re: APM FOIA Status
Date: Friday, August 7, 2020 at 10:23:16 AM Pacific Daylight Time
From: Yesko, Parker
To: Peters CIV Michael L
Attachments: image001.png, image002.png

Hi Mr. Peters,

Thanks for your work on 20-6852. Standing by for those personnel records.

Regarding 20-6851:

Unfortunately, I couldn't limit your search to specific UCMJ articles; many different ones can apply to war crimes. The [Marines' guide to war crimes](#) gives some guidance on identifying war crimes (see pp. 15-24).

[SECNAV Instruction 3300.1C](#) (28 May 2009) ordered the Commandant of the Marine Corps to "implement internal policies and procedures for the prompt reporting, investigation, and disposition of alleged violations of the law of war" and the JAG to maintain a "central depository" of war crimes. Wouldn't any war crimes reporting from the CMC to the JAG be responsive to my request?

Please feel free to call if you'd like to discuss.

Thanks,
Parker

--

Parker Yesko
Reporter | American Public Media
pyesko@apmreports.org
646-621-6611 (c)

APMreports.

From: Peters CIV Michael L <michael.l.peters3@usmc.mil>
Date: Friday, July 31, 2020 at 12:32 PM
To: "Yesko, Parker" <pyesko@apmreports.org>
Subject: RE: APM FOIA Status

Hello Ms. Yesko,

I'm very sorry for the late response and for the lack of comms. I'm slogging through getting the personnel files you've requested for 20-6852; it's a lot of records to search through; we're doing our best.

For 20-6851, I'm being told that the Judge Advocate Division can only search their database by UCMJ Articles, but I'm having a hard time finding where 'war crimes' fits into those Articles. I tried finding a good URL to link to the Manual for Courts Martial which contains the Articles, but did not find anything that was easily accessed. If you could please narrow which Articles of the UCMJ you'd like searched, I'd be very appreciative and it would speed up the process.

Exhibit 13

Again, I offer my apologies for the tardiness of this reply and for the dearth of communications. Please know we're trying to get your request answered as quickly as possible, and that you may challenge our delay on appeal as outlined in our acknowledgment e-mail. Have a great weekend.

Michael L. Peters
Deputy, FOIA/PA Program

Commandant of the Marine Corps (ARSF)
Headquarters US Marine Corps
3000 Marine Corps Pentagon Rm 2B289
Washington DC 20350-3000

FOIA/PA Phone: (703) 614-4008 DSN: 224
Fax: (703) 614-6287
FOIA Email: hqmcfoia@usmc.mil

WARNING: ANY MISUSE OR UNAUTHORIZED DISCLOSURE MAY RESULT IN CIVIL AND/OR CRIMINAL PENALTIES.

Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient (s) and may contain confidential and/or privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by e-mail and destroy any copies of the original message.

We value your comments please take time complete the Management Comment Card via the ICE Tool http://ice.disa.mil/index.cfm?fa=card&service_provider_id=130985&site_id=341&dep=DoD

From: Yesko, Parker <pyesko@apmreports.org>
Sent: Tuesday, July 28, 2020 5:42 PM
To: Peters CIV Michael L <michael.l.peters3@usmc.mil>
Subject: [Non-DoD Source] APM FOIA Status

Hi Mr. Peters,

I'm writing to ask for an update on FOIA requests DON-USMC-2020-006851 and DON-USMC-2020-006852.

You confirmed receipt of them on 4/28. Any sense for when I can expect a release?

Thanks,
Parker

--

Parker Yesko
Reporter | American Public Media
pyesko@apmreports.org
646-621-6611 (c)

APMreports.

Subject: Re: APM FOIA Status
Date: Tuesday, December 22, 2020 at 3:52:26 PM Pacific Standard Time
From: Parker Yesko
To: Peters CIV Michael L
Attachments: image001.png, image002.png, image003.png

Hi Mr. Peters,

Could you please give me an estimated completion date for request 20-6852?

Thank you,
Parker

--

Parker Yesko
Reporter | American Public Media
pyesko@apmreports.org
646-621-6611 (c)

APMreports.

From: "Yesko, Parker" <pyesko@apmreports.org>
Date: Monday, November 9, 2020 at 1:42 PM
To: Peters CIV Michael L <michael.l.peters3@usmc.mil>
Subject: Re: APM FOIA Status

Hi Mr. Peters,

Hope you're well.

I'm writing to check in on the status of 20-6852. Is it possible to release what you have so far?

Many thanks,
Parker

--

Parker Yesko
Reporter | American Public Media
pyesko@apmreports.org
646-621-6611 (c)

APMreports.

Subject: Re: APM FOIA Status
Date: Tuesday, December 22, 2020 at 4:49:43 PM Pacific Standard Time
From: Parker Yesko
To: Peters CIV Michael L
Attachments: image001.png, image002.png, image003.png, image004.png

Thanks, Mr. Peters. Could you estimate your completion dates for the two requests?

--

Parker Yesko
Reporter | American Public Media
pyesko@apmreports.org
646-621-6611 (c)

APMreports.

From: Peters CIV Michael L <michael.l.peters3@usmc.mil>
Date: Tuesday, December 22, 2020 at 4:17 PM
To: Parker Yesko <pyesko@apmreports.org>
Subject: RE: APM FOIA Status

Hi Ms. Yesko,

I'm still working through the personnel records, but I won't be back in the office until December 30th. It's going to take a bit more time to finish those. I'm currently wrapping things up before leaving the office.

I haven't had any success in getting a good point of contact at our Judge Advocate Division, but I'm still trying. I should have a better handle on exactly where we are the first week of the year.

Michael L. Peters
Deputy, FOIA/PA Program

Commandant of the Marine Corps (ARSF)
Headquarters US Marine Corps
3000 Marine Corps Pentagon Rm 2B289
Washington DC 20350-3000

FOIA/PA Phone: (703) 614-4008 DSN: 224
Fax: (703) 614-6287
FOIA Email: hqmcfoia@usmc.mil

WARNING: ANY MISUSE OR UNAUTHORIZED DISCLOSURE MAY RESULT IN CIVIL AND/OR CRIMINAL PENALTIES.

Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient (s) and may contain confidential and/or privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by e-mail and destroy any copies of the original message.

We value your comments please take time complete the Management Comment Card via the ICE

Tool http://ice.disa.mil/index.cfm?fa=card&service_provider_id=130985&site_id=341&dep=DoD

From: Parker Yesko <pyesko@apmreports.org>
Sent: Tuesday, December 22, 2020 7:10 PM
To: Peters CIV Michael L <michael.l.peters3@usmc.mil>
Subject: [Non-DoD Source] Re: APM FOIA Status

Hi Mr. Peters,

Could you please provide me with an estimated completion date for FOIA request 20-6851?

Also, would it be easier for MCHQ to just provide me with the contents of the “central depository” of war crimes (referenced below) than with the type of list described in my original request?

Thanks again,
Parker

--

Parker Yesko
Reporter | American Public Media
pyesko@apmreports.org
646-621-6611 (c)

APMreports.