

EXHIBIT G



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"I will stand for my client's rights.
I am a trial lawyer."
-Ron Motley (1944-2013)

September 19, 2022

VIA Email

Secretary of the Air Force
Headquarters Office of Special Investigations
afosi_hq_foia_request@us.af.mil

Re:	FOIA:	2022-01903-F
	Decedent:	1 st Lt. David Schmitz
	Date of Accident:	June 30, 2020
	Location:	Shaw AFB, SC
	Aircraft:	F-16CM Fighting Falcon

To Whom It May Concern:

This letter is an appeal to the Headquarters (HQ) Office of Special Investigation's (OSI) denial of a Freedom of Information Act (FOIA) request (AF tracking number 2022-01903-F).

OSI's FOIA denial is a *blanket denial*, which courts have held are not permitted. More importantly, OSI has not met the legal burden associated with invoking U.S.C. 552 (b)(7)(A). OSI has not (1) demonstrated there is a pending or reasonably anticipated law enforcement proceeding related to the FOIA material sought, nor (2) demonstrated release of the requested information would reasonably be expected to cause some articulable harm to the government's said law enforcement proceeding.

Background

FOIA 2022-01903-F was submitted on behalf of Mrs. Valerie C. Schmitz on January 13, 2022. The FOIA request was related to the crash of a U.S. Air Force F-16CM aircraft that occurred on the evening of June 30, 2020, at Shaw Air Force Base, South Carolina, which resulted in the death of her husband. F-16 pilot 1st Lt David J. Schmitz was killed when the Digital Recovery Sequencer (DRS) in his ejection seat malfunctioned and his parachute failed to deploy.

FOIA 2022-01903-F contained twenty-nine enumerated requests for documents, information, and activities related to the non-criminal Aircraft Accident Investigation Board (AAIB) that the U.S. Air Force convened following 1st Lt Schmitz's death. All twenty-nine requests were denied by OSI. Without further explanation, Roxanne M. Jensen, who is the Chief at HQ OSI's Information Release Branch, wrote in her June 22, 2022, denial letter, "[a]ny responsive documents to your request are not



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releasable to you at this time in accordance with U.S.C. 552 (b)(7)(A); therefore, your request has been closed."

U.S.C. 552 (b)(7)(A) pertains to an exemption of the Freedom of Information Act, which authorizes the government to withhold "records or information compiled for law enforcement purposes, but only to the extent that production of such law enforcement records or information...could reasonably be expected to interfere with enforcement proceedings."

The AAIB concluded the DRS in Mrs. Schmitz husband's ejection seat malfunctioned, which caused his parachute to fail to deploy, however, the AAIB did not make any conclusions as to why the DRS malfunctioned.

In accordance with U.S. Air Force protocol, following the conclusion of the AAIB, Mrs. Schmitz received a copy of the AAIB report, and she received a *final Next-of-Kin* (Nok) *brief* from the **senior member** of the AAIB. When the U.S. Air Force provided a copy of the AAIB report to Mrs. Schmitz, she was only given the *main body* of the report and not the report's accompanying *Tabs*. *Tabs* are similar to enclosures or appendices. The twenty-seven *Tabs* associated with 1st Lt Schmitz's AAIB report contained substantial supporting information, such as witness statements, technical reports, and other factual data that the AAIB cited, but largely did not include in the main body of the report.

In May 2021, during Mrs. Schmitz's pursuit to find why her husband's ejection seat malfunctioned, she submitted FOIA 2021-02939-F, which requested the entire AAIB report, including the associated *Tabs*. When Mrs. Schmitz obtained the *Tabs* in September 2021, she learned that counterfeit electronic parts had been discovered in the DRS that malfunctioned in her husband's ejection seat.

The information about the counterfeit parts Mrs. Schmitz discovered was contained within two Air Force Research Laboratory (AFRL) reports within the *Tabs*. None of the information in the AFRL report was included in the main body of the AAIB report. The AFRL's reports also stated additional laboratory testing of the counterfeit components found in the DRS would be required to determine if those parts were causal in 1st Lt Schmitz's ejection seat malfunction.

Neither the main body of AAIB or the associated *Tabs* indicated additional testing was performed on the counterfeit parts, nor has the U.S. Air Force provided any additional information to Mrs. Schmitz to indicate this testing was performed. As of today, Mrs. Schmitz has no idea why her husband's ejection seat failed.

It is unconscionable that Mrs. Schmitz had to submit FOIA 2021-02939-F to learn that her husband's ejection seat contained counterfeit electronic components, and it is outrageous that the U.S. Air Force was fully aware her husband's ejection seat contained counterfeit parts when Mrs. Schmitz received her *final Next-of-Kin* (Nok) *brief*, but the U.S. Air Force chose not to inform her. It is also



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bewildering that the AAIB chose not to determine why the DRS malfunctioned when the malfunction resulted in the death of U.S. Air Force pilot.

Mrs. Schmitz rightly believes the AAIB report was grossly deficient and failed to consider all the facts and circumstances surrounding her husband's death. Mrs. Schmitz's January 13, 2022, FOIA request sought information related to her husband's death that was not included in the AAIB report, but which Mrs. Schmitz believed should have been analyzed and contemplated when the AAIB formulated its conclusions.

Mrs. Schmitz's FOIA 2022-01903-F request is not flattering to the U.S. Air Force. It makes clear that relevant and probative questions and facts were overlooked during the performance of her husband's AAIB. It is not lost on Mrs. Schmitz that only after she submitted her unflattering FOIA request did the U.S. Air Force move to suppress her request by shrouding it behind the façade of U.S.C. 552 (b)(7)(A).

U.S.C. 552 (b)(7)(A) is a Two-Part Test

To invoke Exemption 7(A), the government must meet a two-part test. First, there must be a "pending or reasonably anticipated" law enforcement proceeding. Second, release of the requested information must be reasonably expected to cause some articulable harm to that proceeding.¹

The Supreme Court has held that Congress recognized law enforcement agencies had a legitimate need to keep certain records confidential; otherwise, government agencies might be hindered in their investigations.² However, courts have also held that it is not sufficient for an agency to simply assert that disclosure will interfere with enforcement proceedings, rather it must demonstrate how disclosure will interfere.³ An agency must demonstrate how disclosure of records would reveal the focus of an investigation, and how the particular kinds of investigatory records requested would interfere with a pending enforcement proceeding.⁴

¹ Juarez v. DOJ, 518 F.3d 54, 58-59 (D.C. Cir. 2008) (explaining that government must show that records relate to law enforcement proceeding and that proceeding could be harmed by premature release of evidence or information).

² See, e.g., Robbins Tire & Rubber Co., 437 U.S. at 224 (finding that "Congress recognized that law enforcement agencies had legitimate needs to keep certain records confidential, lest the agencies be hindered in their investigations").

³ Citizens for Resp. & Ethics in Wash. v. DOJ, 746 F.3d 1082, 1098 (D.C. Cir. 2014) (remanding for further fact finding because "it is not sufficient for the agency to simply assert that disclosure will interfere with enforcement proceedings; 'it must rather demonstrate how disclosure' will do so").

⁴ Sussman v. U.S. Marshals Serv., 494 F.3d 1106, 1114 (D.C. Cir. 2007) (finding that an agency must demonstrate how disclosure would reveal the focus of an investigation); Campbell v. HHS, 682 F.2d 256, 259 (D.C. Cir. 1982). (holding that the government must show "how the particular kinds of investigatory records requested would interfere with a pending enforcement proceeding").



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To justify the withholding of records an agency must show that (1) a law enforcement proceeding for which the records were compiled is pending or reasonably prospective, and (2) that the release of the information could reasonably be expected to cause some articulable harm.⁵ Furthermore, disclosure must be reasonably expected to interfere in a "palpable, particular way" with the investigation.⁶

I. There is No Evidence of Law Enforcement Proceedings

To justify the withholding of records an agency must show that (1) a law enforcement proceeding for which the records were compiled is pending or reasonably prospective.⁷

No Mention of an Investigation in the AAIB

There is no evidence the U.S. Air Force commenced a law enforcement proceeding into 1st Lt Schmitz's death. The AAIB found 1st Lt Schmitz was killed due to a malfunction in the DRS installed in his ejection seat. Nowhere in the AAIB did it indicate criminal activity had been discovered that necessitated law enforcement proceedings. Conclusions made by the AAIB were silent as what caused the malfunction, and the neither the main body of the AAIB or the accident causal factors or conclusions in the AAIB mentioned counterfeit parts were found in the DRS, so it would be unlikely the DRS manufacture would be under investigation. Further, the author of a recent Air Force Times article about the incident was told by an Air Force spokesperson that there were no pending investigations. Lastly, counsel for Lockheed, Rockwell Collins, and Teledyne, have all conveyed to Mrs. Schmitz's counsel that they are unaware of any criminal investigation.

Mrs. Schmitz not Briefed about Law Enforcement Proceedings

In accordance with U.S. Air Force protocol, following her husband's death, Mrs. Schmitz received frequent briefings about her husband's accident investigation via an U.S. Air Force appointed Family Assistance Representative (FAR), and she received a comprehensive *final Next-of-Kin (Nok) brief* from the President of the Aircraft Accident Investigation Board (AAIB) when the AAIB was completed. In all her formal and informal communication with the U.S. Air Force, not once was Mrs. Schmitz told her husband's death was being investigated by law enforcement, or that her husband's death might have been caused by malice or criminal conduct, or that counterfeit electronic parts were found in the DRS that malfunctioned in her husband's ejection seat and caused his death.

To the contrary, senior U.S. Air Force officials told Mrs. Schmitz, and the AAIB concluded, her husband's crash and death were caused by his own error and negligence, and by the error and

⁵ Cuban v. SEC, 744 F. Supp. 2d 60, 85 (D.D.C. 2010).

⁶ North v. Walsh, 881 F.2d 1088, 1100 (D.C.Cir.1989).

⁷ Cuban v. SEC, 744 F. Supp. 2d 60, 85 (D.D.C. 2010).



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negligence of the Safety of Flight (SOF) officer who was on duty in the Shaw Air Force Base (AFB) control tower on the night of her husband's crash. Indeed, if the U.S. Air Force discovered evidence later that indicated her husband's death was caused by malice, or fraud, or criminal behavior, one would think the U.S. Air Force would have been compelled to reopen her husband's AAIB, and the U.S. Air Force would have notified Mrs. Schmitz that the investigation into her husband's death was incomplete.

According to Air Force Instruction 51-307, section 1.14.3., "[if] the Board President determines the Board has uncovered information that may indicate criminal activity, he or she must, via the Legal Advisor, notify the Convening Authority's Staff Judge Advocate as soon as possible in order for the Convening Authority to determine if the accident investigation shall be suspended and a criminal investigation initiated."

Neither the AAIB report or the AAIB's TABs, or any other documents or briefings provided to Mrs. Schmitz by the U.S. Air Force during the investigation of her husband's death or thereafter, indicate AAIB President Major General Randal K. Efferson was compelled to notify the AAIB's Convening Authority's Staff Judge Advocate that criminal activity had been discovered during the investigation into 1st Lt Schmitz's death.

Nor is there any indication that General Mark D. Kelly, USAF, the Commanding General of Headquarters Air Combat Command, who approved the AAIB report on October 18, 2020, felt compelled to commence law enforcement proceedings. General Kelly wrote in his endorsement of the AAIB report, "[t]he report of the accident investigation board conducted under the provisions of Air Force Instruction 51-307, *Aerospace and Ground Accident Investigations*, that investigated the 30 June 2020 fatal mishap involving an F16CM, T/N 94-0043, 20th Fighter Wing complies with applicable regulatory and statutory guidance, and on that basis it is approved" [emphasis added].

It would be nonsensical to believe the U.S. Air Force Office of Special Investigation spontaneously commenced a law enforcement investigation into criminal activity related to 1st Lt Schmitz death when the AAIB President did not attribute his death to criminal activity, and the convening authority General Mark D. Kelly accepted the AAIB report as written.

Teledyne was Party to the Investigation

Teledyne Technologies manufactured the DRS that malfunctioned in 1st Lt Schmitz's ejection seat. It is unlikely law enforcement proceedings were commenced against Teledyne because Teledyne assisted AFRL with the inspection and testing of the accident DRS during the investigation. It would be highly unusual for the government to allow a criminal defendant to have access to evidence that the government intended to use in criminal proceedings against said defendant, because the defendant would have clear opportunity to tamper with or alter that evidence.



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From the onset, Teledyne was closely involved in the accident investigation, and Teledyne continued to be closely involved in the investigation even after AFRL discovered the accident DRS contained counterfeit parts. Immediately following the accident, the DRS was shipped to Teledyne Electronic Safety Products (TESP) in Chatsworth, California for "in-depth analysis" (AAIB, J-8), and months later, when AFRL received the DRS from TESP, AFRL indicated the DRS was received disassembled and altered. Several serial flash memory chips in the DRS had been removed and replaced, a parallel flash memory chip had been removed and replaced, a single X-Y accelerometer chip had been removed and replaced, and the printed wiring board (PWB) in the DRS had been mounted to a "test fixture" (AAIB, EE-51).

If a law enforcement investigation into the malfunctioning DRS was ongoing, it would have been extraordinary for the U.S. Air Force to have given critical evidence to Teledyne so that Teledyne could disassemble, inspect, conduct tests, and make alterations. Moreover, AFRL thanked Teledyne in a report for providing "technical expertise", and "cooperation/support", and "DRS Firmware & Documentation" (AAIB, EE-32) during the analysis and testing of the accident DRS. If Teledyne was the subject of a criminal investigation, it would be extraordinary for the U.S. Air Force to have given Teledyne the opportunity to alter evidence, and it would be extraordinarily bizarre if the U.S. Air Force then thanked Teledyne for altering that evidence.

Suspicious Timing

The timing of the U.S. Air Force's FOIA 2022-01903-F denial is suspicious. U.S.C. 552 (b)(7)(A) was not invoked during Mrs. Schmitz's numerous communications with her U.S. Air Force appointed Family Assistance Representative; or when she communicated numerous times with her husband's superior officers; or during her final Next-of-Kin (Nok) brief; or when she submitted FOIA 2021-02939-F on May 21, 2021, a full fifteen months after her husband's crash, when she requested that she receive all the Tabs associated with AAIB report; nor when she submitted FOIA 2021-02920-F when she requested the Safety Investigation Board's (SIB) report. Both FOIA requests were fulfilled, albeit with some redactions, but they contained no mention of U.S.C. 552 (b)(7)(A).

Nor was U.S.C. 552 (b)(7)(A) invoked in April 2022, when Renee Kaffenbarger, who is the Freedom of Information Act Analyst at Headquarters 88th Air Base Wing at Wright-Patterson AFB, provided an interim response to Mrs. Schmitz's FOIA 2022-01903-F. In her interim response letter, Ms. Kaffenbarger gave no indication that FOIA 2022-01903-F might be denied due to an ongoing law enforcement investigation, nor did the response mention U.S.C. 552 (b)(7)(A).

Prior to receiving the FOIA 2022-01903-F denial letter from OSI, the only exemptions the U.S. Air Force had invoked regarding Mrs. Schmitz's prior FOIA requests were U.S.C. 552 (b)(3), which relates to certain technical orders, reports, and data exempt from disclosure; U.S.C. 552 (b)(5), which relates to safety investigation board's findings being exempt from disclosure; and U.S.C. 552 (b)(6), which relates to individual privacy interests (see FOIA Request – Case #2021-02939-F).



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Mrs. Schmitz rightly believes the AAIB report was grossly deficient and failed to consider all the facts and circumstances surrounding her husband's death. Mrs. Schmitz's January 13, 2022, FOIA request sought information related to her husband's death that was not included in the AAIB report, but which Mrs. Schmitz believed should have been analyzed and contemplated when the AAIB formulated its conclusions.

Mrs. Schmitz's FOIA 2022-01903-F request is not flattering to the U.S. Air Force. It makes clear that relevant and probative questions and facts were overlooked during the performance of her husband's AAIB. It is not lost on Mrs. Schmitz that only after she submitted her unflattering FOIA request and exposed these failures did the U.S. Air Force move to suppress her request by shrouding it behind the façade of U.S.C. 552 (b)(7)(A). Mrs. Schmitz can cite numerous reasons why the U.S. Air Force would want to suppress FOIA 2022-01903-F:

a. The U.S. Air Force was fully aware DRS units had been and were being modified when her husband was killed because the U.S. Air Force had already developed a modification to the DRS designed to prevent such malfunctions ("Shorting Plug"), and later developed a total replacement for the DRS ("Modernized ACES II Seat Sequencer" or MASS) (AAIB Report, p.40).

b. The U.S. Air Force was fully aware that counterfeit components in the Department of Defense inventory had been an ongoing problem for decades (AAIB Report, EE-64).

c. Although engineers at AFRL stated further laboratory testing on the counterfeit parts found in 1st Lt Schmitz's DRS was required to determine if those counterfeit parts were causal in his death, there is no evidence the U.S. Air Force conducted such testing.

d. As mentioned previously, the U.S. Air Force withheld the information about the counterfeit parts from Mrs. Schmitz.

II. Reasonably Expected Articulate Harm Has Not Been Articulated

To justify withholding of records an agency must show that the release of the information could reasonably be expected to cause some articulable harm.⁸ Disclosure must be reasonably expected to interfere in a "palpable, particular way" with the investigation.⁹

⁸ Cuban v. SEC, 744 F. Supp. 2d 60, 85 (D.D.C. 2010).

⁹ North v. Walsh, 881 F.2d 1088, 1100 (D.C.Cir.1989).



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No Explanation how Disclosure would cause Harm

Roxanne M. Jensen, who is the Chief at HQ OSI's Information Release Branch, wrote in her June 22, 2022, letter denying Mrs. Schmitz's FOIA 2022-01903-F, "[a]ny responsive documents to your request are not releasable to you at this time in accordance with U.S.C. 552 (b)(7)(A); therefore, your request has been closed."

First, Ms. Jensen's letter does not even state that a law enforcement investigation is ongoing; rather, the reader must imply a law enforcement investigation is ongoing based on Ms. Jensen's reference to U.S.C. 552 (b)(7)(A). Second, and more importantly, Ms. Jensen's letter is devoid of any explanation as to how disclosure of the records requested by Mrs. Schmitz would interfere with or compromise some undeclared government investigation or reveal the focus of that investigation.

The U.S. Air Force has not met the legal burden associated with invoking U.S.C. 552 (b)(7)(A). There has been no demonstration that the release of the information Mrs. Schmitz sought could reasonably be expected to cause some articulable harm to the government due to some alleged ongoing law enforcement action.

Mrs. Schmitz is not a government defendant attempting to obtain information for tactical advantage, nor is she a reporter seeking a story for personal gain. Mrs. Schmitz is the widow of 1st Lt Schmitz, who was a U.S. Air Force Airman that was killed in the line of duty while serving his country. An ejection seat DRS malfunctioned, and it killed Mrs. Schmitz's husband, and more than two years after his death she does not know why the DRS malfunctioned. The U.S. Air Force had a fundamental duty to determine the cause of the DRS malfunction, and explain the cause of that malfunction to Mrs. Schmitz, and the U.S. Air Force has dishonored itself by not fulfilling that duty.

The information Mrs. Schmitz seeks via FOIA 2022-01903-F should have been made available to her when she was formally briefed by the U.S. Air Force about the AAIB's results; and it is reprehensible that after she found through her own investigation that her husband's ejection seat contained counterfeit components, and after she reached out to the U.S. Air Force for additional information, rather than be transparent and honorable, without explanation the U.S. Air Force has chosen to withhold information about those counterfeit parts for a second time by shrouding the information behind the façade of U.S.C. 552 (b)(7)(A).

Counterfeit Parts Problem is already Public Knowledge

It is not clear how the disclosure of the FOIA material that Mrs. Schmitz sought would reasonably be expected to interfere in a "palpable, particular way" with a law enforcement investigation when the problem of the existence of counterfeit parts in the U.S. Military has been public knowledge for over a decade. A simple internet search of counterfeit parts in the U.S.



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Military results in hundreds, if not thousands of articles detailing the problem of counterfeit parts in the U.S. Military.

In fact, in 2017 *Scientific American* reported that the military estimated "up to 15 percent of all spare and replacement parts for its weapons, vehicles and other equipment are counterfeit, making them vulnerable to dangerous malfunctions".¹⁰ With such a large percentage of counterfeit parts migrating into U.S. Military equipment, one must assume that all defense contractors that provide electronic components to the U.S. Military are aware of the issue and have quality assurance measures in place to safeguard against the problem.

Not surprisingly, Teledyne Electronic Safety Products (TESP), which is the Teledyne subsidiary that manufactured the accident DRS, has internal policies that are publicly available that are designed to prevent the introduction of counterfeit parts.¹¹ Given that TESP was party to the investigation of the F-16 crash that killed 1st Lt Schmitz, and that TESP inspected 1st Lt Schmitz's malfunctioning DRS, and that TESP is aware counterfeit parts were found in the DRS, it is highly likely Teledyne has already developed defensive legal strategies and prepared its employees in anticipation of litigation. These actions are even more likely given Mrs. Schmitz recently filed a wrongful death action against TESP with the Court of Common Pleas, Third Judicial Circuit, in the State of South Carolina.

Blanket Denials are not Permitted

Courts have cautioned that U.S.C. 552 (b)(7)(A) does not permit "blanket" withholding of documents, and that "automatic, or wholesale withholdings" are not authorized simply because law enforcement proceedings are ongoing.¹²

FOIA 2022-01903-F contained twenty-nine enumerated requests for documents related to a routine non-criminal aircraft accident investigation (AAIB) that the U.S. Air Force conducted following 1st Lt Schmitz's death.

¹⁰ *Scientific American* (April 28, 2017) "The Pentagon's Seek-and-Destroy Mission for Counterfeit Electronics"

¹¹ Teledyne Electronic Safety Products, Quality Instruction, QPR 001, Rev H, <https://www.teledynedefenseelectronics.com/energetics/Documents/QPR%20001%20Rev%20H%20Jan%202019.pdf>

¹² *Cuban*, 744 F. Supp. 2d, 60, 85 (stressing that exemption does not permit "blanket" withholding for all records relevant to investigation); *UtahAmerica Energy v. U.S. Dep't of Lab.*, 700 F. Supp. 2d 99, 109 (D.D.C. 2010), rev'd in part, vacated in part sub nom. *UtahAmerica Energy, Inc. v. Dep't of Lab.*, 685 F.3d 1118 (D.C. Cir. 2012) (reiterating that "automatic, or wholesale withholdings" are not authorized simply because law enforcement proceeding is ongoing); *United Am. Fin. v. Potter*, 531 F. Supp. 2d 29, 38-40 (D.D.C. 2008) (reiterating that agency "should be mindful of the standards applicable in this Circuit" and that even under categorical approach, agency must review each document because there is "no 'blanket exemption'"); *Gould Inc. v. GSA*, 688 F. Supp. 689, 703, 704 n.34 (D.D.C. 1988) (describing generic categories approach as steering "middle ground" between detail required by Vaughn Index and blanket withholding).



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All twenty-nine requests were denied.

Without further explanation, Roxanne M. Jensen, who is the Chief at the OSI Information Release Branch, simply wrote in her one-page June 22, 2022, denial letter, "[a]ny responsive documents to your request are not releasable to you at this time in accordance with U.S.C. 552 (b)(7)(A); therefore, your request has been closed."

Without doubt, Ms. Jensen's denial constitutes a blanket withholding. It is highly unlikely ALL the requested documents could reasonably be expected to cause some articulable harm to the government due to some alleged ongoing law enforcement action. Even a cursory review of the FOIA request would reveal that some requests could not possibly be related to law enforcement proceedings. It appears that Ms. Jensen's denial letter was issued without conducting a thorough review of Mrs. Schmitz's twenty-nine requests.

To fall within the protection of U.S.C. 552 (b)(7)(A) courts have held that it is sufficient for an agency to make a generalized showing that release of the records would interfere with enforcement proceedings.¹³ Courts have also held that the burden is on the agency to "identify either specific documents or functional categories of information that are exempt from disclosure, and disclose any reasonably segregable, non-exempt portion of the requested materials."¹⁴

Ms. Jensen has not met her burden, because her incredibly short denial letter constitutes a blanket denial, and it does not sufficiently articulate, either by a generalized showing, or by specific document, or by functional category, a potential nexus between disclosure and potential harm to an enforcement proceeding to justify the withholding ALL Mrs. Schmitz's record requests in their entirety.

Conclusion

Based on the previously mentioned reasons, please reopen FOIA 2022-01903-F and fulfill the request.

OSI's FOIA denial was made in error. The FOIA denial is a "blanket denial", which courts have held are not allowed. Furthermore, OSI has not met the government's burden of invoking U.S.C. 552 (b)(7)(A), in that OSI has not (1) demonstrated there is a pending or reasonably anticipated law enforcement proceeding related to the material sought, nor (2) demonstrated release of the requested

¹³ Lazardis v. Dep't of State, 934 F. Supp. 2d 21, 37 (D.D.C. 2013)

¹⁴ Long v. DOJ, 450 F. Supp. 2d 42, 76 (D.D.C. 2006) (explaining that to do otherwise "would eviscerate the principles of openness in government that the FOIA embodies")



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information would reasonably be expected to cause some articulable harm to said government's alleged law enforcement proceeding.

It is Mrs. Schmitz's belief that most, if not all her requests pertain to factual information directly related to her husband's AAIB, and if disclosed by the government would have no impact on an ongoing law enforcement action. However, if Mrs. Schmitz's FOIA request was written so broadly that it invoked U.S.C. 552 (b)(7)(A) because it has tangentially touched some other ongoing law enforcement proceeding distantly related to her husband's ejection seat failure, then Mrs. Schmitz is not opposed to revising her FOIA request to divorce her request from those law enforcement proceedings.

Sincerely,

A handwritten signature in black ink, appearing to read "James R. Brauchle", with a long horizontal flourish extending to the right.

James R. Brauchle