



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3000 MARINE CORPS PENTAGON
WASHINGTON, DC 20350-3000

Attachment 5

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ARSF-F
APR 21 2014

SENT VIA EMAIL TO: JOHNHCLARKE@EARTHLINK.NET

LAW OFFICE
JOHN H CLARKE
1629 K STREET NW
SUITE 300
WASHINGTON DC 2006

Dear Mr. Clarke:

SUBJECT: YOUR FREEDOM OF INFORMATION ACT (FOIA) REQUEST, FILE
NUMBER DON-USMC-2014-004664

This acknowledges receipt of your April 8, 2014, FOIA request for records about the attack of U.S. facilities in Benghazi, Libya, on September 11-12, 2012. Your request has been assigned file number **DON-USMC-2014-004664**.

You asked for expedited processing on the basis that you are “primarily engaged in disseminating information in order to inform the public concerning actual or alleged Federal Government activity”. Unfortunately, this does not demonstrate the kind of compelling need required for us to place your case ahead of all the others that are now pending and we must, therefore, deny your request.

You assert that you are a representative of the news media. The term ‘news’ means information about current events or that would be of current interest to the public, and you have not demonstrated that in your request. You also have not demonstrated how you will use your editorial skills to turn the raw materials into a distinct work and distribute that work to an audience. We must, therefore, deny your request for news media status.

You also requested a waiver of all fees because “AIM is organized and operated to publish or broadcast news to the public”. Before making a decision, we must first determine whether your request meets the Department of Defense (DoD) requirements for fee waivers, taking into consideration the following factors:

1. Does the record specifically concern identifiable operations or activities of the Government?

2. If so, is disclosure likely to contribute to public understanding of these operations and activities? Are the releasable contents of the record(s) meaningfully informative in relation to the subject of the request? For example, is this information of wide public interest and will your disclosure be unique in enhancing public knowledge?

5720
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3. Is the focus on contributing to public understanding rather than the requester's own understanding or that of a narrow segment of interested persons?

4. Will any likely contribution to public understanding be significant?

Requests for fee waivers should address these requirements in sufficient detail for us to make an informed decision, as each request is considered on its own merits. Since you have not provided the required information, your request must be denied.

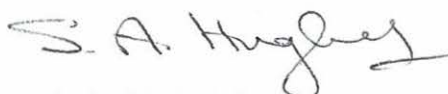
In this instance, we have categorized you as an "other requester" for the purpose of assessing FOIA processing fees. As such, you are entitled to two hours of search time and 100 pages of duplication free of charge but are responsible for the payment of any fees beyond that. Fees are currently assessed at \$20.00 per hour for clerical search, \$44.00 per hour for professional search, and \$.15 per page for photocopy duplication. See 32 C.F.R. § 286 Subpart F. We will begin processing your request and, if it appears that we will exceed your free entitlement, we will contact you to address the fee issue.

In light of the foregoing, you may consider this an adverse determination that may be appealed to the Judge Advocate General of the Navy (Code 14), 1322 Patterson Avenue SE, Suite 3000, Washington Navy Yard, DC 20374-5066. Your appeal must be postmarked within 60 calendar days from the date of this letter and should include a copy of your initial request, a copy of this correspondence and a statement as to why you believe your appeal should be granted. I recommend that your appeal letter and its envelope both bear the notation, "Freedom of Information Act Appeal".

Please note that we have referred item 3 of your request to the Marine Corps Security Force Regiment, 4th St. Bldg 624, Williamsburg, VA 23185, for direct response to you. If you would like to inquire about the status of your request, please call Captain Siva Ambikapath at (757) 877-7126 or send an email to siva.ambikapath@usmc.mil.

Questions concerning this action should be directed to Ms. Barbara Gonzalez at (571) 256-8636 or (703) 614-4008, or via email to smb.hqmc.foia@usmc.mil or fax at (703) 614-6287. Please reference the file number in the subject line above. Finally, please note that I am the official responsible for this determination. Should you have questions or concerns, you may also contact me at (703) 614-4008.

Sincerely,



S. A. HUGHES
Head, FOIA/PA Section