

December 10, 2005

Leslie R. Blake – Chief FOIA/PA
Defense Security Service
1340 Braddock Place
Alexandria, VA 22314 - 1651

Subject: Record Request Under FOIA/PA/APA

Dear Office,

Under the Freedom of Information Act (FOIA), and/or the Privacy Act (PA), and/or the Administrative Procedural Act (APA), I request copies of all agency's records (as defined in **Attachment A** to this letter) related to the Numbered Items listed below for the period from January 1, 1996 until the date this request is filed. Also note that **this request is being made simultaneously under the above three separate referenced Acts** so that documents will be provided under the applicable referenced Act and/or Acts, in order that the most complete and accurate information may be provided if that the information relates directly to the requester.

2. The letter dated 3 October 1998 -- JN/I wrote to Dr. Nira Schwartz informing her that the POET team was incorporating her latest study into their assessment, and advising her to direct her request for access to Raytheon information to the GBI Project Manager. This letter was in connection with m consulting work to the Government during 1996-2000.
3. Attachment B [3 pages] to this letter was included to help you locate the requested document.

Because the records requested may be related to my work for the Government, you may wish to solicit the assistance of the U.S. Attorney General, Mr. Dennis Egan at DOJ, and Mr. Keith Englander at BMDO [see attachment B].

Sincerely,

Dr. Nira Schwartz

Dr. Nira Schwartz
2550 PCH # 68,
Torrance, CA 90505,

Phone: (310) 326 - 6174

Email: Nira@aol.com

Attachment A

1. The term "**records**" is to be construed in the broadest sense and shall mean any written or graphic material, however produced or reproduced, of any kind or description, consisting of the original and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) and drafts and both sides thereof, whether printed or recorded electronically or magnetically or stored in any type of data bank, including, but not limited to, the following: correspondence (Formal and Informal), letters, memoranda, reports, presentations, personal notes, summaries of personal conversations or interviews, minutes (and other records of meetings or conferences), agency and interagency reports, studies, drafts, evaluations, projections, and recommendations including those from consultants, statistical data, contracts, agreements, purchase orders, invoices, confirmations, telegraphs, telexes, agendas, books, notes, pamphlets, periodicals, logs, (in the form of computer-generated, typed or hand-written documents including diaries), desk calendars, appointment books, tape recordings, video recordings, e-mails, voice mails, computer tapes, or other computer stored matter, magnetic tapes, microfilm, microfiche, punch cards, all other records kept by electronic, photographic, or mechanical means, charts, photographs, notebooks, drawings, plans, inter-office communications, intra-office and intra-departmental communications, transcripts, checks and canceled checks, bank statements, ledgers, books, records or statements of accounts, and papers and things similar to any of the foregoing, however denominated. **Location of these records** would include, but not be limited to, those which are in the possession of or stored by DOJ, DOD, BMDO, ARMY, GBI, DOG-IG, DCIS, Boeing North America, TRW Inc., Poet, NRC, GAO and the FBI or their agents.

2. The terms "**relating**," "**relate**," or "**regarding**" as to any given subject means anything that constitutes, contains, embodies, identifies, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.

PROOF OF SERVICE

We, NIRA SCHWARTZ and Richard WOODS do swear or declare that on this date, as required by Supreme Court Rule 29, I have served by first class mail the enclosed:

Letter dated 12-10-2005, Subject: Record Request Under FOIA/PA/APA

and others; Memorandum of Points and Authorities on each party to the above proceeding or party's counsel, and on every other person required to be served, by personally serving through their lawyers. The names and addresses of those served are as follows:

Leslie R. Blake – Chief FOIA/PA
DEFENSE SECURITY SERVICE
1340 BRADDOCK PLACE
ALEXANDRIA, VA 22314- 1651

Dated: December 10, 2005



Plaintiff Woods
2550 PCH # 68
Torrance, CA 90505



Plaintiff Schwartz
2550 PCH # 68
Torrance, CA 90505



DEFENSE SECURITY SERVICE

1340 BRADDOCK PLACE
ALEXANDRIA, VA 22314-1651

JAN 5 1 2006

Dr. Nira Schwartz
2550 PCH #68
Torrance, CA 90505

RE: FOIA# 023-26

Dear Dr. Schwartz:

This is in response to your Freedom of Information-Privacy Acts (FOIA/PA) request for a letter dated October 3, 1998, from JN/I to you.

Based on the information furnished, a search of the automated indices to our central records system files at Defense Security Service (DSS) located no records responsive to your request.

It was noted in your request that you provided an attachment (enclosed) which was intended to help locate the document (letter) in question. Based on a review of the information provided, it appears that you are confusing the DSS with the Defense Criminal Investigative Service (DCIS) which is a branch coming under the jurisdiction of the DoD Inspector General.

As an organization, DSS is a separate agency of the Department of Defense operating under the direction, authority, and control of the Assistant Secretary of Defense (Intelligence) and is responsible for the Defense Industrial Security Program for Safeguarding Classified Information.

Although no main file records responsive to your request were located, we are required to inform you that you are entitled to file an administrative appeal if you so desire. Appeals should be directed to the Director, DSS, Attn: FOIA/PA Appeal, 1340 Braddock Place, Alexandria, VA 22314. In any such appeal, you should also provide a copy of this letter, along with sufficient justification upon which the Director may base a decision.

Should you have any questions, please feel free to contact my office at (703) 325-9450.


LESLIE R. BLAKE
Chief, FOIA/PA
Office of General Counsel

Enclosure



DEPARTMENT OF DEFENSE
BALLISTIC MISSILE DEFENSE ORGANIZATION
NATIONAL MISSILE DEFENSE JOINT PROGRAM OFFICE
SUITE 809, 1725 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202-4102

JN/I

18 May 98

MEMORANDUM FOR GBI PROJECT MANAGER

SUBJECT: Independent Review of TRW Discrimination Techniques

The purpose of this memorandum is to arrange an independent review of TRW's discrimination techniques for the Boeing EKV. The review would address the DoD Inspector General's concerns regarding possible issues with TRW's disclosure of their EKV discrimination results.

I have enlisted the help of members of the POET to perform the review. Their first task will be to review the supporting data that the Inspector General references. Afterwards, they will focus on specific points to clarify in real time with the TRW software engineers. I envision a half-day meeting at TRW's Redondo Beach facility to make this happen.

I would greatly appreciate your support in this. Together we must ensure that we are truly ready to proceed with IFT-3, and we must be able to demonstrate that we have examined and overcome all foreseeable issues. My requirement is to complete this effort within 60 days of the date of this letter. I may be contacted at 703-604-1994.


KEITH L. ENGLANDER
Deputy for System Integration

cc:
BMDO/JN (BG(P) Cosumano)
Boeing EKV (Mr. Ripley)
Boeing LSI (Mr. Demarchi)
DCIS (SA Reed)


Chronology of Phase One Engineering Team (POET) Review of TRW Discrimination

Pre-JN/I Involvement

- Mid-1996 – Dr. Nira Schwartz made allegations to DCIS regarding TRW's Exoatmospheric Kill Vehicle (EKV) discrimination effort.
- March 1997 – Ground Based Interceptor (GBI) Office conducted a meeting with Dr. Schwartz on the TRW baseline discrimination algorithm.
- 14 August 1997 – Dr. Nira Schwartz wrote to the Director, BMDO, saying that Nichols Research Corporation's (NRC's) test of the TRW baseline discrimination algorithm was invalid since it did not include IFT-1A data or the full range of Technical Requirements Document (TRD) threats.
- 20 August 1997 – Dr. Nira Schwartz wrote to the Director, BMDO, saying that the GBI Office and its SETAC (NRC) declined to test the TRW baseline discrimination algorithm against the full range of TRD threats.
- 20 October 1997 – Dr. Nira Schwartz wrote to the Director, BMDO, saying that TRW's software would only work for the IFT-1A flight test data and that the GBI Office was covering up for TRW.

JN/I Involvement

- 22 December 1997 – JN/I learned of the specific allegations made by Dr. Nira Schwartz concerning TRW discrimination techniques and results when the Defense Criminal Investigative Service (DCIS) wrote requesting a review of the 45-day and 60-day reports.
- March 1998 – DCIS, the GBI Office, and JN/I conducted a conference call to discuss the matter.
- 10 April 1998 – DCIS wrote to JN/I suggesting reference materials and continuing the dialogue on TRW's discrimination technique.
- 18 May 1998 – JN/I announced an independent assessment of the TRW discrimination technique by the Phase One Engineering Team (POET).
- 28 May 1998 – Potential POET team members met with JNE (Conwell) and SETA (Barbaro) to obtain background on the review task.
- 29 May 1998 – The POET team leader and local cadre leader met with JN/I to discuss review task scope of work/guidance.
- 2 June 1998 – JN/I letter announced revised completion date (1 August 1999) for POET review and provided update on review status.
- 15 June 1998 – DCIS suggested modifications to the POET review scope of work to expand it to include assessment against the entire 1993 GBI Technical Requirements Document (TRD).
- 16 June 1998 – The POET team met with Dr. Nira Schwartz to hear her concerns first-hand.
- 29 June 1998 – DCIS provided "Contradictions" document and reference list
- 10 July 1998 – The POET team recommended against changing their scope of work.
- 13 July 1998 – JN/I wrote a letter to TRW (cc: DCIS) that clarified the intent of the technical interchange meeting between TRW and the POET team.
- 21-22 July 1998 – The POET team conducted a technical interchange meeting with TRW to obtain further information on the discrimination concept.

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- Circa 17 August 1998 – The POET team leader and POET cadre leader briefed JN/I on their interim results.
 - 1 September 1998 – DCIS wrote to JN/I, providing analysis of why they believed the TRW discrimination algorithms would not work.
 - 4 September 1998 – Director, BMDO wrote to Dr. Nira Schwartz to clarify the scope of the POET review.
 - 24 September 1998 – DCIS wrote to JN/I provided analysis for the POET team to compare with TRW's 21-22 July 1998 briefing materials. Distribution list: JN/I, JNE, POET-Arlington, Lawrence Livermore National Laboratory, Aerospace Corporation, MIT Lincoln Laboratory.
 - 30 September 1998 – The POET team submitted the draft final report to JN/I.
 - On 3 October 1998 – JN/I wrote to Dr. Nira Schwartz informing her that the POET team was incorporating her latest study into their assessment, and advising her to direct her request for access to Raytheon information to the GBI Project Manager.
 - 9 October 1998 – DCIS wrote to the POET team leader with answers to questions on DCIS's understanding of the TRW discrimination technique.
 - 24 November 1998 – JN/I wrote to the POET team leader to provide guidance on a planned 7-8 December 1998 outbrief on the POET's review results. (Outbrief was later rescheduled for February 1999.)
 - 23 December 1998 – DCIS wrote to JN/I saying they had received the draft POET report and asking for copies of two of the references ("IFT-1A Ellipse Models and Measured Signatures from 45 and 60 Day Reports (U)", data tape, TRW, 13 July 1998; and "IFT-1A Features and SNR for POET (U)" data tape, TRW, 6 August 1998). 29 December 1998 JN/I handwritten note on the faxed DCIS letter authorized release of the references to DCIS.
 - 11 January 1999 – POET team leader transmitted one copy each of two versions of the draft POET final report, with the proposed distribution list (JN/I, BNA, DCIS, POET-Arlington, MIT Lincoln Laboratory, NRC, Aerospace Corporation, TRW, Lawrence Livermore National Laboratory). A copy was sent later to GBI.
 - 25 January 1999 – The POET team distributed the final report.
 - 3-4 February 1999 – The POET team, TRW, Boeing, JN/I, GBI, NRC, DCIS, and DoJ met at Aerospace Corporation, El Segundo, CA, for the POET outbrief.
 - 26 February 1999 – DoJ wrote to Dr. Nira Schwartz to inform her of their decision not to intervene in her case.
 - 10 March 1999 – JN/I provided a copy of the POET final report to BMDO General Counsel and concluded that TRW's results were reproducible, the discrepancies noted by DCIS were plausibly explained, and the TRW claims did not appear to be intentionally falsified.
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 - 9 November 1999 – BMDO General Counsel requested JN/I review documents for release to Dr. Nira Schwartz in her litigation.
 - 10 November 1999 – Dr. Nira Schwartz wrote to DoJ and DCIS regarding the Government's refusal to intervene in her case, BMDO's refusal to declassify material for her, and the presence of her reports on the Internet.
 - 13 November 1999 – JN/I approved release of the summary of the review of Dr. Schwartz's requested documents.

February 7, 2006

Leslie R. Blake – Chief FOIA/PA
Defense Security Service
1340 Braddock Place
Alexandria, VA 22314 - 1651

Subject: Record Request Under FOIA/PA/APA
returning back to you the 1-31-06 letter

Dear Ms. Blake,

I have received your letter dated 1-31-06.

No confusion.

If you took the time to read my last page [I am returning back to you the 1-31-06 letter] where on the last page an arrow is pointing to the requested letter, you would have make a note of that. I have marked that to help you, find the requested letter.

I am aware of the difference between DCIS and DSS, I have consulted working for DCIS during 1996 –2000. Are you aware of that? Anyway, thanks for the education.

Well, a copy of all my documents exists at DSS, despite the fact that I physically worked at DCIS.

Please take the time to find the requested document, prior to me filing an appeal, because I believe you concentrated on rejecting my request based on my alleged confusion. There is no confusion.

Sincerely,

Dr. Nira Schwartz

Dr. Nira Schwartz
2550 PCH # 68,
Torrance, CA 90505,

Phone: (310) 326 - 6174

Email: Nira@aol.com



DEFENSE SECURITY SERVICE

1340 BRADDOCK PLACE
ALEXANDRIA, VA 22314-1651

JAN 5 1 2006

Dr. Nira Schwartz
2550 PCH #68
Torrance, CA 90505

RE: FOIA# 023-26

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Although no main file records responsive to your request were located, we are required to inform you that you are entitled to file an administrative appeal if you so desire. Appeals should be directed to the Director, DSS, Attn: FOIA/PA Appeal, 1340 Braddock Place, Alexandria, VA 22314. In any such appeal, you should also provide a copy of this letter, along with sufficient justification upon which the Director may base a decision.

Should you have any questions, please feel free to contact my office at (703) 325-9450.


LESLIE R. BLAKE
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Office of General Counsel

Enclosure



DEPARTMENT OF DEFENSE
BALLISTIC MISSILE DEFENSE ORGANIZATION
NATIONAL MISSILE DEFENSE JOINT PROGRAM OFFICE
SUITE 809, 1725 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202-4102

JN/I

18 May 98

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KEITH L. ENGLANDER
Deputy for System Integration

cc:
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2. PROOF OF SERVICE

We, NIRA SCHWARTZ and Richard WOODS do swear or declare that on this date, as required by Supreme Court Rule 29, I have served by first class mail the enclosed:

Letter dated 2-07-2006, Subject: Record Request Under FOIA/PA/APA
returning back to you the 1-31-06 letter

and others; Memorandum of Points and Authorities on each party to the above proceeding or party's counsel, and on every other person required to be served, by personally serving through their lawyers. The names and addresses of those served are as follows:

Leslie R. Blake – Chief FOIA/PA
DEFENSE SECURITY SERVICE
1340 BRADDOCK PLACE
ALEXANDRIA, VA 22314- 1651

Dated: February 7, 2005



Plaintiff Woods
2550 PCH # 68
Torrance, CA 90505



Plaintiff Schwartz
2550 PCH # 68
Torrance, CA 90505



DEFENSE SECURITY SERVICE

1340 BRADDOCK PLACE
ALEXANDRIA, VA 22314-1651

APR 10 2006

Dr. Nira Schwartz
2550 PCH #68
Torrance, CA 90505

RE: FOIA# 056-26

Dear Dr. Schwartz:

This is in further reference to your letter dated February 7, 2006, requesting, pursuant to the Freedom of Information-Privacy Acts (FOIA/PA), a letter dated October 3, 1998, from JN/I to you.

As indicated to you previously by letter dated January 31, 2006, a search of the automated indices to our central records system files at Defense Security Service (DSS) located no records responsive to your request. Once again DSS searched all available field elements and DSS Headquarter offices which are reasonably likely to be responsive to your request. However, no documents responsive to your request were located.

Courts generally evaluate the reasonableness of a search by reviewing the agency's retrieval efforts in light of the parameters specified in the FOIA request. Although the reasonableness of the search varies on a case-by-case basis, the issue is not whether and documents might conceivably exist, but rather, whether the Government's search for the responsive documents was adequate. Truitt v. Dep't of State, 897 F.2d 540, 542 (D.C. Cir. 1990). Moreover, the adequacy and reasonableness of an agency's search is not undercut by the requester's speculative claim that other records "must exist." See Oglesby v. United States Dep't of the Army, 920 F.2d 57 (D.C. Cir. 1990).

Although you did not identify to DSS where this October 3, 1998, letter might be located within DSS, the agency searched industrial security files related to TRW/Boeing EKV and nothing was located. Accordingly, DSS feels our search was adequate to satisfy its obligation under the FOIA and we will not spend any additional personnel hours looking for this correspondence. The FOIA is not intended to reduce government agencies to full-time investigators on behalf of requesters, or to allow requesters to conduct "fishing expeditions" through agency files. You should also be aware that even if DSS was to locate this correspondence, DSS could not release it to you if it originated with JN/I. DSS would have to refer the letter to JN/I for their direct response to you.

Although no records responsive to your request were located, we are required to inform you that you are entitled to file an administrative appeal if you so desire. Appeals should be directed to the Director, DSS, Attn: FOIA/PA Appeal, 1340 Braddock Place,

Alexandria, VA 22314. In any such appeal, you should also provide a copy of this letter, along with sufficient justification upon which the Director may base a decision.

Should you have any questions, please feel free to contact my office at (703) 325-9450.



LESLIE R. BLAKE
Chief, FOIA/PA
Office of General Counsel

April 15, 2006

Director, DSS
FOIA/PA Appeal
Defense Security Service
1340 Braddock Place
Alexandria, VA 22314 - 1651

Subject: Appeal Record Request Under FOIA/PA/APA

Dear Office,

Please find attached DSS letter Dated April 10, 2006.

I do believe that no-honest investigation [if at all] was done to locate the October 3, 1998 letter addressed to me.

I believe that instead of investigation, your office is performing a personal attack and deformation of character that launched against me, such as naming me "confused" person, and a "fishing expedition" request person, and a person that degrades the Government agencies to a full time investigators.

I do believe that FOIA is a lawful tool to investigated and produced the requested document, because I believe you have it in your possession. I do not recall me having any power over the US Government agencies, but rater what our Constitution granted me.

I the event my request for one dated letter causing your data search to collapse, I am willing to straight your database, FOR FREE. As you know since I became a whistleblower [Case CV-96-3065RSWL], no one will hire me. There is a lot of free time on my hands. This letter is very important to me to have the US Government pay me for the use and benefit from my Intellectual Property. I cannot help thinking that the lack of sincere search for the document is not a coincident.

Please produce the document.

Sincerely,

Dr. Nira Schwartz

Dr. Nira Schwartz Phone: (310) 326 - 6174
2550 PCH # 68, Torrance, CA 90505,

Email: Nira@aol.com



DEFENSE SECURITY SERVICE

1340 BRADDOCK PLACE
ALEXANDRIA, VA 22314-1651

APR 10 2006

Dr. Nira Schwartz
2550 PCH #68
Torrance, CA 90505

RE: FOIA# 056-26

Dear Dr. Schwartz:

This is in further reference to your letter dated February 7, 2006, requesting, pursuant to the Freedom of Information-Privacy Acts (FOIA/PA), a letter dated October 3, 1998, from JN/I to you.

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Should you have any questions, please feel free to contact my office at (703) 325-9450.



LESLIE R. BLAKE
Chief, FOIA/PA
Office of General Counsel

PROOF OF SERVICE

We, NIRA SCHWARTZ and Richard WOODS do swear or declare that on this date, as required by Supreme Court Rule 29, I have served by first class mail the enclosed:

Dated: April 15, 2006

Subject: Appeal Record Request Under FOIA/PA/APA

Attached DSS letter to Schwartz dated: April 10, 2006

and others; Memorandum of Points and Authorities on each party to the above proceeding or party's counsel, and on every other person required to be served, by personally serving through their lawyers. The names and addresses of those served are as follows:

Director, DSS
FOIA/PA Appeal
Defense Security Service
1340 Braddock Place
Alexandria, VA 22314 - 1651

Dated: April 15, 2006



Plaintiff Woods
2550 PCH # 68
Torrance, CA 90505



Plaintiff Schwartz
2550 PCH # 68
Torrance, CA 90505