



DEPARTMENT OF THE NAVY  
NAVAL SAFETY COMMAND  
375 A STREET  
NORFOLK, VA 23511-4399

5720  
Ser 03/F324  
October 21, 2024

Sent via email: [larryc@exhibitstudios.com](mailto:larryc@exhibitstudios.com)

Dear Mr. Christian:

SUBJECT: UPDATE TO YOUR FREEDOM OF INFORMATION ACT CASE  
2024-NSC-656 (F); 2024-NAVY-FOIA-009132

This is an updated response to your request of September 17, 2024, wherein you asked for crash reports, Search and Rescue (SAR) debriefings, and ship records regarding the losses of VA-23, A-4E, BUNO 151144 and VAW-113, EA-1F, BUNO 132540 in the vicinity of Thanh Hoa, Vietnam on June 2, 1965. Your request was assigned an internal tracking number 2024-NSC-656 (F).

The Naval Safety Command is the custodian of and the release authority for Safety Investigation Reports (SIR) and their enclosures. Our response is limited to that portion of your request. The incidents you are seeking occurred as a result of "direct enemy action" and not considered safety mishaps and therefore an SIR was not required to be completed for either of them. We conducted an additional search of our microfilm and although there were no SIRs located, we did locate and have attached the Combat Zone Incident reports for both incidents.

Enclosed are redacted copies of the original Combat Zone Incident reports for the two incidents above. These redacted copies, which are the best quality that can be reproduced, include the factual information contained in the original reports. The witness statements given under the promises of confidentiality and/or information derived from such statements and portions containing the analysis, conclusions, and recommendations of the command safety investigators, members of the Safety Investigation Board (SIB), and Safety Investigation Report (SIR) endorsers are being withheld under the safety privilege and deliberative process privilege. The withholding of this information is authorized by 5 U.S.C. § 552(b)(5), DoDI 6055.07 and SECNAVINST 5720.42G. Also withheld are all the crewmembers' service numbers and the names of those not directly involved in the incident. The withholding of this information is authorized by 5 U.S.C. § 552(b)(6), SECNAVINST 5211.5F and SECNAVINST 5720.42G.

Under the FOIA, an agency may withhold information only if the agency reasonably foresees that disclosure would harm an interested party by an authorized FOIA exemption or if disclosure is prohibited by law. If information must be withheld, the agency must consider whether partial disclosure of information is possible and take reasonable steps to segregate and release nonexempt information. In preparing my response to you, I considered this standard. I determined the foreseeable harm of releasing 5 U.S.C. § 552(b)(5), privileged safety information (PSI), because the release of this information may jeopardize the ability to obtain reliable

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information in future mishap safety investigations. Federal courts have consistently affirmed the importance of protecting such information from public release on the assumption that such release will discourage witnesses and board members from being totally honest and candid about the causes of accidents. See e.g., *United States v. Weber Aircraft Corp.*, 465 U.S. 792 (1984) (“To encourage witnesses to speak fully and frankly, they are not sworn and receive an assurance that their statements will not be used for any purpose other than accident prevention.”).

Additionally I determined there would also be a foreseeable harm in releasing 5 U.S.C. § 552 (b)(6), personal private information (PII), because the release of this information would constitute a clearly unwarranted invasion of their or their surviving family members’ privacy if released to a requester, other than the actual person in which the information is pertaining to and their privacy interest is not outweighed by the public interest. I have taken reasonable steps to segregate and release nonexempt information.

The official responsible for the response to your request is:

Daniel P. Martin  
Rear Admiral, U.S. Navy  
Commander, Naval Safety Command

If you disagree with this response or believe an adequate search for responsive records, you have a right to appeal. Your appeal must be received (i.e., post-marked) within **90** calendar days from the date of this letter.

Please provide the appeal authority (see below) the following in an envelope marked “FOIA appeal”:

- a letter requesting an appeal that explains what you are appealing with any supporting arguments or reasons you think may be worthy of consideration;
- a copy of your initial request;
- a copy of the letter of denial.

Also, please provide me a copy of your appeal letter to this command at Naval Safety Command, Attention: FOIA Coordinator, 375 A Street, Norfolk, VA 23511-4399.

The two main ways to file an appeal are by mail or through the Internet.

1. By mail. Address your appeal to: The Judge Advocate General (Code 14), 1322 Patterson Avenue SE, Suite 3000, Washington Navy Yard, DC 20374-5066.

2. Through the Internet. Use the public portal of the SecureRelease (the Department of

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the Navy's FOIA processing system). Go to <https://www.securerelease.us>. Click "Login/Create Account" (in the top-right corner) and enter the information in the boxes that appear to create an account. Once that is done, you will be able to file an appeal for any request created through the SecureRelease portal by clicking the Create Appeal button in the top-right corner of the Request page.

To appeal a request that was not submitted through the SecureRelease portal, create a SecureRelease portal account, then use the Create Request button on the SecureRelease portal homepage to create a FOIA request. In the Request Description field for that FOIA request, indicate that this is an appeal and make reference to the tracking number you have received for the request you wish to appeal.

If you have any questions, please contact the FOIA coordinator at [email address] and [telephone number]. You may also contact the DON FOIA Public Liaison, Christopher Julka, at [christopher.a.julka@navy.mil](mailto:christopher.a.julka@navy.mil), (703)697-0031. In addition, the Office of Government Information Services (OGIS) provides a voluntary mediation process for resolving disputes between persons making FOIA requests and the Department of the Navy (DON). For more information, go to <https://www.archives.gov/ogis/about-ogis/contact-information>.

Your request is being treated as an "all others request" as identified in 32 C.F.R. § 286.12(a). There are no fees associated with processing of your request in this instance.

If you have any questions, you may contact our office at (757) 444-3520 extension 6055 or via e-mail at [safe-foia@navy.mil](mailto:safe-foia@navy.mil). Please refer to case numbers 2024-NSC-656 (F).

Sincerely,



L. G. ELLIS-SHOOKS

By direction of the Commander