



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
2 NAVY ANNEX  
WASHINGTON, DC 20380-1775

IN REPLY REFER TO:

5720  
ARSF/10U100287  
April 1, 2010

MR MARTIN OTTMAN  
54 RUE PIERRE BROSSOLETTE  
92300 LEVALLOIS-PERRET  
FRANCE

Dear Mr. Ottman:

SUBJECT: FOIA REQUEST FILE HQMC-200900672

This follows-up my July 14, 2009, interim response to your March 23, 2009, Freedom of Information Act (FOIA) by which you seek to obtain copies of documents reflecting the use of incendiary weapons/smoke generating projectiles containing white phosphorus by U.S. military forces in Iraq between March 2003 and March 23, 2009. As you were apprised, your FOIA request was transferred from the Marine Corps Systems Command to this Headquarters to coordinate a search of files maintained by the Aviation Department for responsive documents as they pertain to aviation assets.

Please be advised that knowledgeable personnel within the Aviation Department have apprised that they cannot provide the requested data. While records are maintained with regard to the expenditure of white phosphorus in terms of date, quantity, purpose (i.e., combat, training, testing), and the military unit expending it, no records are maintained regarding the location where the ordnance was expended (i.e., Iraq). In order to determine where white phosphorus ordnance was expended, knowledgeable personnel would have to conduct exhaustive and time-consuming research outside of USMC existing record systems and create a new record tailored to your FOIA request. However, FOIA law and regulation do not require the government to create a record simply to respond to a FOIA request.

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

Questions concerning this action may be directed to Ms. Aku Nenonene of my staff at (703) 614-4008. You may also email your inquiries to [smb.hqmc.foia@usmc.mil](mailto:smb.hqmc.foia@usmc.mil) or fax them to (703) 614-6287.

Sincerely,

TERESA D. ROSS  
Head, FOIA/PA Section (ARSF)  
Security Programs & Info Mgmt Br  
Administration & Resource Mgmt Div  
By direction of the  
Commandant of the Marine Corps