



DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

OFFICE OF THE GENERAL COUNSEL

SAF/GCA
1740 Air Force Pentagon
Washington DC 20330-1740

JUN 23 2008

Mr. John S. Farmer
3537 Deerwood Avenue
Memphis TN 38111

Dear Mr. Farmer

This letter replies to your April 2, 2008 Freedom of Information (FOIA) appeal (JACL# 2008-0039) of the "no records" response to your initial request for a copy of the air traffic control audio tapes for September 11, 2001 from the air traffic control terminal located at Langley Air Force Base, Virginia."

I have been delegated the responsibility to conduct the Office of the Secretary of the Air Force review in your case. I considered your appeal and determined it should be denied.

You appealed the "no records" response regarding a copy of the air traffic control audio tapes for September 11, 2001 citing AFI 23-204, paragraph 3.2.3 which states:

"Protect CDR hard-copy printouts and all other recorded records of aircraft mishaps, alleged deviations or hazardous air traffic reports (HATR) to the degree necessary to prevent unauthorized access. Locked receptacles (file cabinets, desk or safes) are adequate for storing this material."

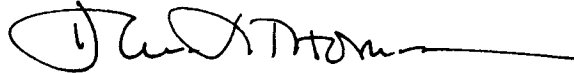
In this case, no aircraft from Langley AFB were involved in any mishap on September 11, 2001.

The adequacy of an agency's search under the FOIA is determined by a test of "reasonableness." At a minimum, this requires an agency to undertake a search "reasonably calculated to uncover all relevant documents." *Weisberg v. United States Department of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983). Department of Defense Regulation (DoDR) 5400.7/Air Force Supplement, para C5.3.1.2 states: "If a requester appeals an Air Force "no records" determination, Air Force elements must search again, or verify the adequacy of their first search."

Upon receipt of your appeal, the 1st Fighter Wing conducted a second search, but no responsive records were found. The Air Force's search was thorough and comprehensive and was reasonably calculated to uncover all responsive records that are currently in the possession and control of the United States Air Force. Consequently, the Air Force has met its obligation under the FOIA.

This constitutes the final Air Force action on your appeal. The FOIA, 5 U.S.C. § 552, provides for judicial review of this determination.

Sincerely

A handwritten signature in black ink, appearing to read "David L. Thomas", with a long horizontal flourish extending to the right.

David L. Thomas
Assistant Deputy General Counsel
(Fiscal and Administrative Law)