

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANA**

Civil Action No.

Speaking Truth To Power,

Plaintiffs,

v.

United States Strategic Command, United States
Department of Defense

Defendants,

COMPLAINT

1. This is a lawsuit seeking the release of records related to the United States Air Force Global Strike Command Inspector General's March 2013 investigation of the 91st Missile Wing at Minot Air Force Base North Dakota, as a result of which 17 officers lost their certification to launch ICBM's.
2. This action is brought under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, seeking injunctive and other appropriate relief, the immediate processing and release of records sought by Plaintiff Speaking Truth to Power (STTP)from Defendants; United States Strategic Command(USSTRATCOM), and the United States Department of Defense (DoD).

3. The Request, dated May 30, 2013, sought release of records related to the United States Air Force Global Strike Command Inspector General's March 2013 investigation of the 91st Missile Wing at Minot Air Force Base North Dakota, as a result of which 17 officers lost their certification to launch ICBM's.
4. The Request was directed to USSTRATCOM and DoD.
5. As more fully described below, Defendant USSTRATCOM indicated in an email dated June 7, 2013 that it "expects(s) to respond to your (STTP) request not later than 22 July 2013. Your request for a fee waiver is approved". To date no requests responsive to Plaintiff's request have been released by USSTRATCOM.

Jurisdiction and Venue

6. This Court has subject matter jurisdiction and personal jurisdiction over this action pursuant to 5 U.S.C. §552(a)(4)(B), (a)(6)(E)(iii), 28 U.S.C. §1331, and 5 U.S.C. §§ 701-706.
7. Venue is premised on the place of business of Speaking Truth to Power (STTP) in this district under 5 U.S.C. § 552(a)(4)(B).

Parties

8. Plaintiff Speaking Truth to Power is a public policy research and information organization. STTP in conjunction with Global Zero and the Center for Arms Control and Non-Proliferation will make this information freely available to thousands of citizens through varied publications and across several websites including;
www.speakingtruthtopower.org, <http://armscontrolcenter.org> and www.globalzero.org.

Obtaining information about governmental activity, analyzing that information, and widely publishing and disseminating it to the press and the public is a critical component of STTP's work.

9. Defendant USSTRATCOM conducts global operations in coordination with other Combatant Commands, Services, and appropriate U.S. Government agencies to deter and detect strategic attacks against the U.S. and its allies, and is prepared to defend the nation as directed. USSTRATCOM is a governmental agency within the meaning of 5 U.S.C. § 552 (f)(1).

Factual Background

10. A March 2013 inspection of the 91st Missile Wing at Minot AFB, North Dakota, by the Inspector General of the Air Force Global Strike Command revealed grave deficiencies on the missile wing's operational ability to launch Minuteman III missiles. As a result of the inspection, 17 officers at Minot AFB were removed from the highly sensitive duty of standing watch 24 hours a day over the missiles.
11. An email written by Lt. Col. Jay Folds in response to the inspection stated "We are in fact in a crisis mode right now". Folds also stated in the email "And now we are discovering such rot in the crew force that your behavior while on alert is accepting of" weapons safety rule violations, possible code compromises, "all in the name of not inconveniencing yourselves". (Fox News, May 8, 2013)
12. On May 30, 2013, , STTP submitted a FOIA request as follows;
 - “ 1. All records pertaining to the United States Air Force Global Strike Command Inspector General's March 2013 investigation of the 91st Missile Wing at Minot AFB, North Dakota, including but not limited to:

- a. What prompted the investigation;
- b. Who undertook the investigation;
- c. Who was inspected
- d. The final results of the investigation

2. Any follow up documentation on the United States Air Force Global Strike Command Inspector General's March 2013 investigation of the 91st Missile Wing at Minot AFB, North Dakota, including but not limited to information dealing with:

- a. What steps are being put in place to ensure the results indicating a lowering morale in the launch crews mentioned in the Inspector General's report does (not) continue."

13. In a letter dated June 6, 2013, Kendall L. Cooper, DAFC, Command FOIA/PA Manager wrote that the May 30, 2013 request had been forwarded to Air Force Global Strike Command.

14. An email was received from Candice Velazquez, Freedom of Information Manager, Civ, DAF, AFGSC FOIA/PA Manager on June 7, 2013 at 9:20 AM acknowledging STTP's FOIA request of May 30, 2013, assigning Case No. 2013-04405-F to the request. The email also indicated that a fee waiver has been granted. The same email indicated "Based on our current backlog, we expect to respond to your request no later than 22 July 2013".

15. To date no such response to plaintiff's request has been received from any of the defendants.

Causes of Action

16. Defendants' failure to provide the requested documents violates the FOIA, 5 U.S.C. § 552 et al.

Prayer for Relief

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. Order Defendants immediately produce all records responsive to the Request of May 30, 2013;
- B. Enjoin Defendants from charging Plaintiff search, review, or duplication fees for the processing of the Request;
- C. Award Plaintiff their costs and reasonable attorney's fees incurred in this action; and
- D. Grant such other relief as the Court deem just and proper.

Dated: November 15, 2013

By:  _____

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