

1997 ANNUAL FOIA REPORT

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MEMORANDUM FOR THE DIRECTOR, FREEDOM OF INFORMATION AND SECURITY REVIEW, OASD (PA)

Subj: 1997 ANNUAL FOIA REPORT SUBMISSION (DD-PA(A)-1365) FOR 1 JAN 97 THROUGH 30 SEP 97

Ref: (a) DOD Directive 5400.7-R
Encl: (1) DD Form 2564, w/atchs
(2) Diskette (Microsoft Word 6.0)

1. As required by reference (a), enclosure (1) is submitted. Enclosure (2) is provided for your use.
2. Questions regarding this report should be directed to Ms. Tracy Ross, (202) 685-0412.

By direction
(202) 685-0412

ANNUAL REPORT FREEDOM OF INFORMATION ACT

1. INITIAL DETERMINATIONS										
a. TOTAL REQUESTS		b. GRANTED IN FULL		c. DENIED IN PART		d. DENIED IN FULL		e. OTHER REASONS		f. TOTAL ACTIONS
19,645		11,828		2,309		544		6,060		20,741
2a. EXEMPTIONS INVOKED ON INITIAL DETERMINATIONS										
(b)(1)	(b)(2)	(b)(3)	(b)(4)	(b)(5)	(b)(6)	(b)(7)	(b)(8)	(b)(9)	TOTAL	
113	84	73	397	405	1,516	508	0	0	3,096	
2b. (b)(3) STATUTES INVOKED ON INITIAL DETERMINATIONS (Continue on separate sheet if necessary)										
(1) (b)(3) STATUTES CLAIMED					(2) Number of Instances					
10 USC 130					9					
10 USC 1102					10					
10 USC 2305(g)					47					
12 USC 3403					1					
35 USC 205					1					
41 USC 423					5					
2c. "OTHER REASONS" CITED ON INITIAL DETERMINATIONS										
1	2	3	4	5	6	TOTAL				
2,605	1,659	467	620	605	104	6,060				

3. INITIAL DENIAL AUTHORITIES BY PARTICIPATION

(Continue on separate sheet if necessary)

a. NAME (Last,First,Middle Initial)	b. RANK (If Military)	c. TITLE & ORGANIZATION	d. # of Instances
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See Attached List.

4. APPEAL DETERMINATIONS

a. TOTAL REQUESTS	b. GRANTED IN FULL	c. DENIED IN PART	d. DENIED IN FULL	e. "OTHER REASONS"	f. TOTAL ACTIONS
313	5	45	153	110	313

5a. EXEMPTIONS INVOKED ON APPEAL DETERMINATIONS

(b)(1)	(b)(2)	(b)(3)	(b)(4)	(b)(5)	(b)(6)	(b)(7)	(b)(8)	(b)(9)	TOTAL
134	10	11	64	94	58	0	0	254	

5b. (b)(3) STATUTES INVOKED ON APPEAL DETERMINATIONS

(Continue on separate sheet if necessary)

(1) (b)(3) STATUTES CLAIMED	(2) Number of Instances
10 USC 130	2
10 USC 1102	2
10 USC 2305(g)	3
41 USC 423	2
42 USC 2162(d)	1

5c. "OTHER REASONS" CITED ON APPEAL DETERMINATIONS

1	2	3	4	5	6	TOTAL
12	41	3	34	18	2	110

6. APPEAL DENIAL AUTHORITIES BY PARTICIPATION

(Continue on separate sheet if necessary)

a. NAME (Last,First,Middle Initial)	b. RANK (If Military)	c. TITLE & ORGANIZATION	d. # of Instances
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See Attached List.

7. COURT OPINIONS AND ACTIONS TAKEN

(Continue on separate sheet if necessary)

8. FREEDOM OF INFORMATION ACT IMPLEMENTATION RULES OR REGULATIONS

(Continue on separate sheet if necessary)

9. FEES COLLECTED FROM THE PUBLIC

TOTAL AMOUNT COLLECTED FROM PUBLIC	\$ 217,939.73
10a. AVAILABILITY OF RECORDS (Continue on separate sheet if necessary)	
10b. FOI PROGRAM COSTS	
I. PERSONNEL COSTS	
A. ESTIMATED MANYEARS	146.65
B. MANYEAR COSTS	\$ 6,470,744.20
C. ESTIMATED MANHOUR COSTS BY CATEGORY	
(1) Search Time	\$ 269,803.88
(2) Review and Excising	\$ 340,326.85
(3) Coordination and Approval	\$ 123,862.28
(4) Correspondence/Form Preparation	\$ 106,496.26
(5) Other Activities	\$ 55,846.31
(6) Total [(1) through (5)]	\$ 896,335.58
D. OVERHEAD [(B + C) x 25%]	\$ 1,841,769.95
E. TOTAL (B through D)	\$ 9,208,849.73
II. OTHER CASE-RELATED COSTS	
A. COMPUTER SEARCH TIME	\$ 261,318.96

B. OFFICE COPY REPRODUCTION	\$ 211,010.70			
C. MICROFICHE REPRODUCTION	\$ 3,156.60			
D. PRINTED RECORDS	\$ 16,116.22			
E. COMPUTER COPY	\$ 4,210.07			
F. AUDIOVISUAL MATERIALS	\$ 419.91			
G. OTHER	\$ 72,428.60			
H. SUBTOTAL (A through G)	\$ 568,661.06			
I. OVERHEAD (25% x H)	\$ 142,165.25			
J. TOTAL (H + I)	\$ 710,826.31			
III. COST OF ROUTINE REQUESTS PROCESSED	\$ 68,269.40			
IV. TOTAL COSTS (I through III)	\$ 9,987,945.44			
10c. FORMAL TIME LIMIT EXTENSIONS				
(1) LOCATION	(2) VOLUME	(3) CONSULTATION	(4) COURT	(5) TOTAL
56	565	54	32	707

3 . INITIAL DENIAL AUTHORITIES FOR INITIAL DETERMINATIONS:

NAME	RANK	TITLE	NO. OF TIMES
Alamia, F. A.	Cdr	Acting Director, Medico-Legal Affairs; Bureau of Medicine & Surgery	2
Allison, G. B.	Capt	Commander, Computer & Telecommunications Command	2
Annis, R. E.	Capt	Acting Commander, Amphibious Group Three	8
Augustin, J. H.	Capt	Commanding Officer, Naval Facilities Engineering Command, Southern Division	5
Bandy, M. H.	Capt	Acting Commander, Amphibious Group Three	2
Bannow, S. W.	Cdr	Deputy Judge Advocate; Commander in Chief, U. S. Atlantic Fleet	1
Basham, M. A.	Maj	Adjutant; Marine Corps Base, Quantico	59
Bastien, R. D.	LCdr	Staff Judge Advocate; Office of Naval Intelligence	33
Beckman, F. H.	Capt	Executive Officer; Public Works Center, San Diego	22
Belanger, G.	LCdr	Force Judge Advocate; Commander, Naval Forces, Japan	5
Bennett, B. R.	Capt	Vice Commander, Navy Exchange Service Command	4
Black, R.	Capt	Commanding Officer, Naval Support Activity, Souda Bay	1
Bodensiek, M. D.	LCdr	Deputy Force Judge Advocate; Commander, Naval Air Force, U. S. Atlantic Fleet	8
Bogle, R. C.	Capt	Commander, Naval Education and Training Center, Newport, RI	44
Bowers, J. P.	Civ	Counsel; Public Works Center, Yokosuka	2
Bowman, M. D.	RAdm	Chief of Naval Air Training	52

Boyington, J. E.	RAdm	Commander, Fleet Air, Keflavik	4
Brewer, D. L.	RAdm	Commander, Amphibious Group Three	4
Bryant, F. D.	Capt	Deputy Chief of Staff; Commander, Patrol Wings, U. S. Pacific Fleet	5
Bucholz, R. P.	Cdr	Acting Commanding Officer, Engineering Field Activity, West	3
Buckley, B. W.	Capt	Commanding Officer, Naval Research Laboratory	2
Butt, C. H.	Capt	Deputy Chief of Staff; Commander, Naval Surface Force, U.S. Pacific Fleet	11
Capizzi, D. A.	Capt	Director, Contracting Directorate; Naval Information Systems Management Center	12
Carman, J. W.	Capt	Fleet Public Affairs Officer; Commander in Chief, U. S. Atlantic Fleet	12
Carter, J. M.	Capt	Chief of Staff; Commander, Amphibious Group Two	2
Center, W. D.	RAdm	Commander, Naval Surface Force, U. S. Pacific Fleet	2
Chamberlain, P.	Capt	Commanding Officer, Naval Facilities Engineering Command, Northern Division	8
Clark, J.	Lt	Assistant Force Judge Advocate; Commander, Naval Air Force, U. S. Pacific Fleet	1
Clopton, C. M.	Cdr	Staff Judge Advocate/FOIA Officer; Naval Air Systems Command	114
Coppin, C. J.	Capt	Force Judge Advocate; Commander, Naval Surface Reserve Force	1
Corcoran, G. J.	Capt	Commander, Naval Activities, United Kingdom	2
Corcoran, M.	Cdr	Commanding Officer, Naval Computer & Telecommunications Station, Washington DC	1
Coyle, R. E.	Civ	FOIA Officer; Naval Air Systems Command	20
Dames, T. A.	RAdm	Commander, Naval Facilities Engineering Command, Pacific Division	3
Davidson, C. M.	Cdr	Commanding Officer, Naval Support Activity, La Maddalena	1
Dawson, J. C.	RAdm	Commander, Cruiser-Destroyer Group Twelve	3
Decicco, W. A.	Capt	Staff Judge Advocate; Chief of Naval Personnel	100
Delaney, K. F.	RAdm	Commander, Naval Base, Jacksonville, FL	32
Demlein, J. J.	Capt	Chief of Staff; Commander, Submarine Group Two	16
DiGeorge, F. P.	Capt	Commanding Officer, Construction Battalion Center, Gulfport	3

Donahue, C. J.	Capt	Head, Attack Submarine Branch, Submarine Warfare Division; Deputy Chief of Naval Operations (Resources, Warfare Requirements & Assessments)	5
Doud, W. E.	Capt	Deputy Chief of Staff; Commander, Naval Surface Force, U. S. Pacific Fleet	1
Doyle, J. R.	Capt	Commanding Officer, Public Works Center, Norfolk	1
Dronberger, H.	Cdr	Fleet Judge Advocate; Commander, Sixth Fleet	1
Dudley, W. S.	Civ	Director of Naval History	2
Duffy, J. P.	Capt	Deputy Assistant Judge Advocate General (Administrative Law)	6
Ellis, R. L.	RAdm	Commandant, Naval District Washington	2
Ellis, W. G.	RAdm	Commander, Submarine Force, U. S. Pacific Fleet	2
Fagan, P. A.	Capt	Commanding Officer, Naval Legal Service Office Southwest, San Diego	1
Fagan, P. A.	Capt	Force Judge Advocate; Commander, Naval Air Force, U. S. Pacific Fleet	5
Fladd, W. R.	RAdm	Commander, Amphibious Group Two	2
Fogarty, W. P.	Capt	Commanding Officer, Naval Facilities Engineering Command, Northern Division	2
Fritzgerald, J.	VAdm	Naval Inspector General	4
Gaffney, P. G.	RAdm	Commander, Amphibious Group Two	3
Gagelin, M. K.	LCdr	Assistant Staff Judge Advocate; Commander, Naval Base, San Diego	1
Galdorisi, G. V.	Capt	Deputy Chief of Staff; Commander, Cruiser-Destroyer Group Three	1
Gebert, D. F.	Capt	Commanding Officer, Engineering Field Activity, Northwest	4
Grant, W. F.	Capt	Chief Judge; Navy-Marine Corps Trial Judiciary	1
Green, K. P.	RAdm	Commander, Naval Training Center, Great Lakes	1
Greene, T. W.	Capt	Staff Judge Advocate; Chief of Naval Education and Training	11
Gunn, L. F.	VAdm	Naval Inspector General	1
Hardy, D. M.	Capt	Force Judge Advocate; Commander in Chief, U. S. Naval Forces, Europe	3
Helgeson, M. A.	Capt	Deputy Chief of Staff; Commander, Carrier Group Three	1
Henebery, J. K.	Capt	Deputy Assistant Judge Advocate General (General Litigation)	2
Henry, D.	Capt	Vice Commander, Naval Air Warfare Center, Weapons Division	1

Henry, J. G.	Capt	Chief of Staff; Commander, Submarine Force, U. S. Atlantic Fleet	1
Hickman, D. E.	RAdm	Commander, Naval Supply Systems Command	1
Hofwolt, G. L.	Capt	Acting Commander, Submarine Group Eight	2
Hollrith, J. W.	Capt	Executive Officer, Naval Facilities Engineering Command, Pacific Division	3
Holzbauer, J. R.	Col	Chief of Staff; Marine Corps Base, Camp Pendleton	2
Horgan, M. M.	Capt	Fleet Judge Advocate; Commander in Chief, U. S. Pacific Fleet	9
Hunter, E. R.	Capt	Commanding Officer, Engineering Field Activity, West	1
Irvin, E. E.	Cdr	Staff Judge Advocate; Commander, Naval Base, Norfolk	423
Jackson, S. E.	Capt	Assistant Legal Advisor; Naval Counsel of Personnel Boards	5
Jacob, J. D. C.	Capt	Deputy for Operations; U. S. Naval Academy	11
Jenkins, M. B.	Cdr	Acting Deputy Assistant Judge Advocate General (Administrative Law)	2
Johnson, M. R.	Capt	Commander, Naval Facilities Engineering Command, Southwest Division	3
Johnson, R. A.	Capt	Force Judge Advocate; Commander, Naval Reserve Force	44
Kelly, L. J.	Civ	Director of Administration and Resources Management; Headquarters, U. S. Marine Corps	2
Kenney, S. A.	LCdr	Staff Judge Advocate; Naval Postgraduate School	1
Kiamos, P. C.	Lt	Staff Judge Advocate; Commander, Amphibious Group Three	2
Kiger, N. F.	Civ	General Counsel; Naval Criminal Investigative Service	5
Konetzni, A. H.	RAdm	Commander, Submarine Group Seven	10
Kubic, C. R.	Capt	Vice Commander, Naval Facilities Engineering Command, Atlantic Division	13
Lamb, A. F.	Lt	Staff Judge Advocate; Commander, Amphibious Group Three	1
Langston, A. N.	RAdm	Director, Navy Staff; Vice Chief of Naval Operations	4
Larson, L. E.	Capt	Commander, Naval Base, Guantanamo Bay	3
Lee, D. M.	Capt	Deputy Director, Assessment Division; Deputy Chief of Naval Operations (Resources, Warfare Requirements & Assessments)	1
Lenard, J. D.	Col	Chief of Staff; Marine Corps Base Twentynine Palms	7

Lewis, W.	Capt	Commanding Officer, Engineering Field Activity, Mediterranean	2
Lisle, S. G.	Lt	Staff Judge Advocate; Commander, Naval Security Group	5
Loftus, J. V.	Civ	Deputy Naval Inspector General	130
Long, P. A.	RAdm	Commander, Cruiser-Destroyer Group Five	4
Lundquist, E. H.	Capt	Commanding Officer, Naval Media Center	1
Maltbie, W. F.	Civ	Director, Human Resources Operations Center	1
Martello, K. W.	Capt	Commanding Officer, Naval Station, Roosevelt Roads	2
Mason, M.	Cdr	Deputy Force Judge Advocate; Commander, Naval Air Force, U. S. Pacific Fleet	60
McBride, D. C.	Col	Commanding Officer, Marine Corps Base, Barstow	5
McCollum, J. P.	Civ	Counsel; Naval Air Warfare Center, Weapons Division	14
Meade, C. A.	Cdr	Special Assistant for Legal Affairs; Naval Recruiting Command	8
Mengel, W. N.	Capt	Executive Officer, Engineering Field Activity, Northwest	5
Meyen, J. E.	LtCol	Staff Judge Advocate; Naval Criminal Investigative Service	321
Miller, S.	Civ	Associate Counsel; Naval Air Warfare Center, Weapons Division	6
Mooberry, W. J.	Civ	Director, Naval Safety Center	59
Morin, G. S.	LtCol	Deputy Director, Manpower Division; Marine Corps Base, Quantico	2
Morrell, K. A.	Capt	Force Judge Advocate; Commander, Naval Surface Force, U. S. Atlantic Fleet	2
Mullen, M. G.	RAdm	Commander, Cruiser-Destroyer Group Two	1
Munns, L. J.	Capt	Commanding Officer, Naval Air Station, Whidbey Island	50
Muth, C. C.	Civ	Counsel; Commander, Naval Facilities Engineering Command	3
Nanos, G. P.	RAdm	Director, Strategic Systems Programs Office	4
Nathman, J. B.	Capt	Deputy Chief of Staff; Commander, Carrier Group Seven	7
Naugle, K. J.	Cdr	Deputy Director, Administrative Support Division; Navy-Marine Corps Appellate Review Authority	29
Navin, C. J.	Capt	Commanding Officer, Engineering Field Activity, Northwest	1
Neunaber, B. S.	Cdr	Acting Commander, Naval Activities, Spain	1

Newcomb, J. F.	Cdr	Acting Commanding Officer, Naval Support Activity, Naples	4
Nielsen, T. W.	Cdr	Executive Officer, Engineering Field Activity, Chesapeake	61
Norman, J. B.	Cdr	Director, Medico-Legal Affairs; Bureau of Medicine & Surgery	4
O'Brien, W.	Lt	Staff Judge Advocate; Naval Air Warfare Center, Weapons Division	2
Osman, H. P.	BGen	Commanding General, Marine Corps Recruiting Depot, Western Reporting Region, San Diego	2
Paad, G. C.	Cdr	Deputy Assistant Judge Advocate General (Investigations)	172
Parker, R. E.	BGen	Deputy Commander, U. S. Pacific Forces, Pacific	1
Parks, G. L.	BGen	Commanding General, Marine Corps Recruiting Depot, Western Reporting Region, San Diego	4
Pearcy, R. E.	Col	Chief of Staff; Marine Corps Base, Camp Pendleton	16
Peters, R. K.	Civ	Director, Plans, Programs and Diversity; Deputy Assistant Secretary of the Navy (Civilian Personnel/Equal Employment Opportunity)	3
Peters, W. A.	Capt	Chief of Staff; Commander, Submarine Group Two	16
Peterson, H. W.	Col	Acting Commanding General, Marine Corps Recruiting Depot, Western Reporting Region, San Diego	1
Price, C. A.	Cdr	Force Judge Advocate; Commander, Naval Air Force, U. S. Atlantic Fleet	27
Prochazka, F. J.	Capt	Chief of Staff; Commander, Amphibious Group Two	9
Pruett, D. D.	Capt	Commanding Officer, Public Works Center, Washington	44
Putnam, W. L.	RAdm	Commander, Cruiser-Destroyer Group Three	1
Raines, R. B.	Cdr	Executive Officer, Public Works Center, Washington	37
Rainwater, G. E.	Civ	Comptroller; Naval Construction Battalion Center	2
Rotz, R. D.	Cdr	Acting Commanding Officer, Naval Facilities Engineering Command, Northern Division	1
Russo, F. V.	Capt	Force Judge Advocate; Commander, Naval Air Force, U. S. Pacific Fleet	11
Ryan, J. R.	RAdm	Commander, Fleet Air, Mediterranean	1
Sabbatine, J.	Capt	Commanding Officer, Engineering Field Activity, Chesapeake	42
Schaefer, C. A.	Capt	Chief of Staff; Commander, Submarine Group Ten	5

Schetzle, M. A.	Lt	Deputy Assistant for Legal Affairs; Naval Recruiting Command	2
Schmidt, W. R.	RAdm	Commander, Cruiser-Destroyer Group One	8
Schmitt, C. H.	Civ	Deputy Director; Naval Nuclear Propulsion Program Office	5
Scott, R. M.	Capt	Acting Chief of Naval Education and Training	3
Scott, R. M.	Capt	Chief of Staff; Chief of Naval Education and Training	1
Scullion, L. P.	Capt	Commanding Officer, Naval Facilities Engineering Command, Southern Division	1
Seacrist, S.	Lt	Assistant Staff Judge Advocate, Naval Medical Center, San Diego	1
Shaffer, R. L.	Civ	Auditor General; Naval Audit Service	2
Shelton, M. W.	RAdm	Commander, Second Naval Construction Brigade	2
Shelton, M. W.	RAdm	Commander, Naval Facilities Engineering Command, Atlantic Division	1
Slocum, W. S.	Capt	Deputy Commander, Naval Recruiting Command	1
Southgate, G. V.	Capt	Commander, Naval Training Center, Orlando	1
Spindler, R. F.	Civ	Associate Counsel; Naval Air Warfare Center, Weapons Division	45
Stark, J. K.	Capt	Commanding Officer, Naval Station, Roosevelt Roads	1
Sterner, G. R.	VAdm	Commander, Naval Sea Systems Command	44
Stewart, J. D.	MGen	Deputy Chief of Staff for Installations & Logistics; Headquarters, U. S. Marine Corps	2
Stuckert, B.	Capt	Commander, Naval Activities, Spain	10
Sutton, W. G.	RAdm	Commander, Naval Base, Pearl Harbor	14
Sutton, W. G.	RAdm	Commander, Naval Surface Group, Middle Pacific	2
Sweet, W. J.	Capt	Chief of Staff; Commandant, Naval District Washington	3
Taylor, T. R.	Capt	Staff Judge Advocate; Commander, Naval Base, Seattle	5
Thompson, B. L.	Civ	Head, FOIA/PA Office; Headquarters, U. S. Marine Corps	205
Todd, J. R.	Col	Chief of Staff; Marine Corps Base, Camp Pendleton	19
Tracey, P. A.	VAdm	Chief of Naval Education and Training	2
Tyson, W. J.	Capt	Commanding Officer, Naval Air Station, Sigonella	9
Wagner, G. F. A.	RAdm	Commander, Space and Naval Warfare Systems Command	2

Weiss, D. A.	RAdm	Commander, Carrier Group Three	1
White, D. M.	Capt	Staff Judge Advocate; Commander, Naval Base, Seattle	6
Whitties, R. B.	Cdr	Staff Judge Advocate; Commander, Naval Base, San Diego	21
Williamson, R.	RAdm	Commander, Carrier Group Two	6
Young, V. K.	Lt	Assistant Staff Judge Advocate; Naval Medical Center, San Diego	1
Zanfangma, P. E.	Civ	Acting Deputy Chief of Staff for Installations & Logistics; Headquarters, U. S. Marine Corps	1
Zengel, P.	Cdr	Staff Judge Advocate; Naval Postgraduate School	5

6. APPELLATE DENIAL AUTHORITIES FOR INITIAL DETERMINATIONS:

NAME	RANK	TITLE	NO. OF TIMES
Anderson, D. A.	LtCol	Deputy Assistant Judge Advocate General (General Litigation)	58
Angrist, E. P.	Civ	Deputy General Counsel	44
Bradley, L. A.	Civ	Principal Deputy General Counsel	1
Henebery, J. K.	Capt	Deputy Assistant Judge Advocate General (General Litigation)	95

7. COURT OPINIONS AND ACTIONS TAKEN:

Alonzo A. Swann v. Secretary of the Navy, C. A. No. H91-0062, N.D. Ind. In this case, the plaintiff alleges disability disputes and civil rights violations against the Veterans Administration (VA). To support his allegations, the plaintiff requested through the FOIA copies of his medical records, which he had already received through the VA. The government filed a Motion to Dismiss for failure to state a claim. The case was dismissed on February 21, 1997.

Martin Marietta Corp., Orlando v. John H. Dalton, Secretary of the Navy and the U.S. Department of the Navy, C. A. No. 94-2702 TPJ, D.D.C. This is a Reverse FOIA action that was filed by plaintiff on December 16, 1994, to enjoin the disclosure of confidential information (cost and fee; component and configuration pricing; and technical/management information) in five Martin Marietta contracts for the Consolidated Automated Support System (CASS). The complaint focused on a pending CASS procure- ment for Lots V through IX, wherein Martin Marietta alleged that release of information from the previous five CASS contracts would cause significant, irreparable harm to their competitive position. The Navy's answer was filed on March 30, 1995, seeking summary judgment. Plaintiff filed opposition to

the Navy's summary judgment motion and a cross motion seeking summary judgment on May 26, 1995. On July 11, 1995, plaintiff filed an amended complaint to include information pertaining to a recently awarded CASS contract. Only July 12, 1995, the Navy filed a motion for enlargement to July 28, 1995.

A status hearing was held before Judge Jackson on February 4, 1997. On August 8, 1997, the court granted the Navy's motion for summary judgment, denied plaintiff's cross-motion for summary judgment and ordered the action dismissed with prejudice. The court found that the financial/commercial information in the CASS contracts was "required" and not "voluntary," and was, therefore, subject to the tests for withholding established in National Parks; concluded that there would be no impairment of the government's ability to obtain such information in the future; rejected the argument that data from two of the CASS contracts was public domain since it had been previously disclosed under the FOIA; and found that the Navy's conclusion, that neither the revelation of cost and pricing data nor proprietary management strategies were likely to result in such egregious injury to Martin Marietta as to disable it as an effective competitor for business in the future, was not arbitrary or capricious or an abuse of its discretion. The basis for the court's finding was its conclusion that Martin Marietta failed to bear its burden of demonstrating how it would suffer substantial harm if the contracts were open to public scrutiny.

Robert Russell v. Cheney, C. A. No. 93-0003, D.D.C. Plaintiff was convicted of first degree murder of his estranged wife, Shirley Gibbs Russell. Plaintiff's conviction was affirmed by the Court of Appeals for the Fourth Circuit and he is currently serving life in prison without parole. In 1992, plaintiff submitted a FOIA request to the Naval Criminal Investigative Service (NCIS) seeking all information relating to the "NIS investigation." A second request was submitted to the Commandant of the Marine Corps (CMC). Neither request directed the NCIS to specific agencies, offices, or storage facilities where documents could be found. Plaintiff contends that an inadequate search was conducted because other agencies were not searched (Naval Intelligence, Secretary of the Navy, Office of the Judge Advocate General, and the Prince William County Policy Department). The original requests had not requested that these entities be searched. Plaintiff contends that defendants should have known to search these entities because they were referenced in documents that were released to the plaintiff. As in Kowalozyk v. Department of Justice, 73 F.2d 386 (D.C. Cir. 1996), an agency is only required to "conduct a search reasonably calculated to uncover all relevant documents" and that the agency is not required to speculate about or exhaust

all potential leads. The court found that the NCIS had conducted an adequate search and, on September 11, 1997, dismissed the case.

Tidewater Marine, Inc. v. Department of the Navy, C.A. No.

1:95CV01668, D.D.C. This action was filed on August 30, 1995, seeking injunctive relief under FOIA from withholding records by Military Sealift Command. The records sought are abstracts of offers and evaluations of offerors in a negotiated procurement (N623787-95-R-1304) for the time charter of up to two tugs for Mayport, Florida. A Joint Stipulation for Dismissal without prejudice was filed by the parties on November 3, 1995, pending an administrative decision on an appeal. Following denial of the appeal, Tidewater reinstated the suit in early 1996 as number 95-2290 (GK). On March 25, 1997, the court granted defendant's motion for summary judgment.