

EXHIBIT 1

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October 27, 2023

VIA Email

RE: Freedom of Information Act/Privacy Act Request

This letter constitutes a request under the federal Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), and is submitted on behalf of the Reporters Committee for Freedom of the Press (“Reporters Committee” or “RCFP”) to the United States Department of the Army. The Reporters Committee is a nonprofit association dedicated to protecting First Amendment freedoms and the newsgathering rights of journalists.¹

I. Background

A “milblog” (short for “military blogging”) or “warblog” is a blog devoted to covering news events concerning an ongoing war. The phenomenon of “milblogging” emerged during the lead-up to the Iraq War in 2003,² and expanded through approximately 2007 before declining.³

In October 2004, Cheryl Irwin, a Defense Department spokeswoman, told the Los Angeles Times that the Pentagon had “no specific guidelines on blogging per se,” and that “[g]enerally, [soldiers] can do it if they are writing their blogs not on government time and not on a government computer. They have every right under the 1st Amendment to say any darn thing they want to say unless they reveal classified information, and then it becomes an issue as a security violation.”⁴

¹ See generally www.rcfp.org.

² See generally John Hockenberry, *The Blogs of War*, WIRED (Aug. 13, 2005), http://www.wired.com/wired/archive/13.08/milblogs_pr.html.

³ https://www.huffpost.com/entry/iraq-war-military-bloggers_n_5ab1543ee4b008c9e5f2089c

⁴ <https://www.latimes.com/archives/la-xpm-2004-oct-03-adfg-warblog3-story.html>

In 2005, the U.S. Army updated Regulation 530-1 (“AR 530-1”), a policy on operational security. The updated 2005 version required U.S. soldiers to consult with a commanding officer before posting information in a public forum.⁵ It also required soldier-bloggers to register said blogs with their units,⁶ and directed commanders to conduct quarterly reviews of such blogs to check for actual or alleged violations of operational security or privacy rules.⁷ Regulation 530-1 has been updated several times thereafter, including on March 20, 2007,⁸ April 19, 2007,⁹ and in September 26, 2014.¹⁰

On or about August 6, 2006, a Department of Defense “Alert” was issued.¹¹ The Alert states, among other things:

“EFFECTIVE IMMEDIATELY, NO INFORMATION MAY BE PLACED ON WEBSITES THAT ARE READILY ACCESSIBLE TO THE PUBLIC UNLESS IT HAS BEEN REVIEWED FOR SECURITY CONCERNS AND APPROVED IN ACCORDANCE WITH DEPUTY SECRETARY OF DEFENSE MEMORANDUM *WEB SITE POLICIES AND PROCEDURES,* DECEMBER 7, 1998 (HTTP://WWW.DEFENSELINK.MIL/WEBMASTERS/) AND, AS APPLICABLE, DOD INSTRUCTION (DODI) 5230.29, *SECURITY AND POLICY REVIEW OF DOD INFORMATION FOR PUBLIC RELEASE.* COMMAND REVIEW PROCEDURES MUST ALSO SPECIFICALLY ADDRESS IDENTIFICATION OF FOR OFFICIAL USE ONLY (FOUO) INFORMATION AND SHALL ENSURE ALL INFORMATION IS REVIEWED BY PERSONNEL TRAINED IN OPERATIONS SECURITY (OPSEC).”

[. . .]

BLOGS, OR WEB LOGS, POSTED TO PUBLIC WEBSITES ARE INCREASINGLY USED BY MILITARY PERSONNEL AS PERSONAL JOURNALS. COMMANDERS SHALL ENSURE SUBORDINATES ARE AWARE THAT, IN ACCORDANCE WITH DOD DIRECTIVE 5230.9, *CLEARANCE OF DOD INFORMATION FOR PUBLIC RELEASE,* AND THE JOINT ETHICS REGULATION (DOD 5500.7-R), PERSONAL BLOGS (I.E., THOSE NOT HAVING DOD SPONSORSHIP AND PURPOSE) MAY NOT BE CREATED/MAINTAINED DURING NORMAL DUTY HOURS AND MAY NOT CONTAIN INFORMATION ON MILITARY ACTIVITIES THAT IS

⁵ <https://irp.fas.org/doddir/army/ar530-1-2005.pdf>.

⁶ John Hockenberry, *The Blogs of War*, *Wired* (Aug. 2005), <https://www.wired.com/2005/08/milblogs/>.

⁷ *See id.*; <https://irp.fas.org/doddir/army/ar530-1-2005.pdf>.

⁸ https://www.wired.com/images_blogs/dangerroom/files/army_reg_530_1_updated.pdf; *see also* Nikki Schwab, *Military Bloggers Wary of New Policy*, *Wash. Post* (May 5, 2007), <https://www.washingtonpost.com/wp-dyn/content/article/2007/05/05/AR2007050500881.html>.

⁹ *Id.*; *see also* J.D. Leipold, *Army Releases New OPSEC Regulation* (Apr. 19, 2007), https://www.army.mil/article/2758/army_releases_new_opsec_regulation (archived at <https://perma.cc/L2NR-3AEU>)

¹⁰ https://armypubs.army.mil/epubs/DR_pubs/DR_a/pdf/web/r530_1.pdf.

¹¹ https://www.esd.whs.mil/Portals/54/Documents/DD/iss_process/SecDef_Msg_InfoSec.pdf, archived at <https://perma.cc/76XA-Q8EU>

NOT AVAILABLE TO THE GENERAL PUBLIC. SUCH INFORMATION INCLUDES COMMENTS ON DAILY MILITARY ACTIVITIES AND OPERATIONS, UNIT MORALE, RESULTS OF OPERATIONS, STATUS OF EQUIPMENT, AND OTHER INFORMATION THAT MAY BE BENEFICIAL TO ADVERSARIES.”¹²

On May 5, 2007, President George W. Bush appeared via remote broadcast at the 2007 MilBlog Conference, and told the attendees: “America’s military bloggers are also an important voice for the cause of freedom . . . [y]ou understand that defeating the terrorists requires us to defeat their ideology of hatred and of death with a more powerful vision, a vision of human liberty.”¹³

This background information is provided to facilitate the location of responsive records, and does not limit the scope of this request.

II. Requested Records

Pursuant to the FOIA, I, on behalf of the Reporters Committee, request access to and copies of the following records:

1. All drafts of, redlines, or proposed edits to AR 530-1 that were generated between February 5, 2003 and September 26, 2005;
2. All emails or memoranda containing potential updates, suggestions, questions, or edits to AR 530-1 that were generated between February 5, 2003 and September 26, 2005;
3. All drafts of, redlines, or proposed edits to AR 530-1 that were generated between September 28, 2005 and March 19, 2007;
4. All emails or memoranda containing potential updates, suggestions, questions, or edits to AR 530-1 that are dated between September 28, 2005 and March 19, 2007;
5. All drafts of, redlines, or proposed edits to AR 530-1 that were generated between March 21, 2007 and April 18, 2007;
6. All emails or memoranda containing potential updates, suggestions, questions, or edits to AR 530-1 that are dated between March 21, 2007 and April 18, 2007;
7. All drafts of, redlines, or proposed edits to AR 530-1 that were generated between April 20, 2007 and September 25, 2014;
8. All emails or memoranda containing potential updates, suggestions, questions, or edits to AR 530-1 that are dated between April 20, 2007 and September 25, 2014;
9. All emails or memoranda mentioning, referring to, and/or discussing the drafting and the Defense Department’s August 6, 2006 Information Security/Website Alert.¹⁴

¹² *Id.*

¹³ <https://www.washingtonpost.com/wp-dyn/content/article/2007/05/05/AR2007050500881.html>

¹⁴ *See supra* fn. 11.

Please note that with respect to any email correspondence, this request includes the entire email chain in which any agency personnel or contractor is a sender or recipient (including a “cc” or “bcc”) of one or more emails in the chain. This request also includes any email attachments. This request also includes official communications sent or received using any non-governmental email account or other electronic messaging account.

III. Fees and Fee Categorization

As a representative of the news media, the Reporters Committee is only required to pay for the direct cost of duplication after the first 100 pages. 5 U.S.C. § 552(a)(4)(A)(ii)(II). This information is being sought on behalf of the Reporters Committee for *inter alia*, analysis and free dissemination to the general public through multiple avenues, including RCFP’s website,¹⁵ social media accounts,¹⁶ and email newsletter.¹⁷

In the event that there are duplication fees for responding to this request, the Reporters Committee is willing to pay up to \$50. Please let me know in advance if fees for responding to this request will exceed that amount before proceeding.

IV. Conclusion

If this request is denied in whole or part, please justify all such denials by reference to specific exemptions and explain why the agency “reasonably foresees that disclosure would harm an interest” protected by that exemption or why “disclosure is prohibited by law[.]” 5 U.S.C. § 552(a)(8). Please also ensure that all segregable portions of otherwise exempt material are released.

If you have any questions regarding this request, please feel free to contact me at gsingh@rcfp.org. Thank you in advance for your assistance.

Sincerely,
Gunita Singh
Staff Attorney
Reporters Committee for Freedom of the Press

¹⁵ <https://www.rcfp.org/>.

¹⁶ *See, e.g.*, <https://twitter.com/rcfp> (~26.2 thousand followers as of Oct. 3, 2023); <https://www.facebook.com/ReportersCommittee/> (10k “likes” as of Oct. 3, 2023).

¹⁷ <https://rcfp.us15.list-manage.com/subscribe?u=682100887bbcfff066b451132&id=8f701b284f>.