



# Judicial Watch

*Because no one is above the law!*

September 23, 2004

**BY FEDEX & FAX**

Hon. Gordon R. England  
Secretary of the Navy  
U.S. Navy  
2000 Defense Pentagon  
Washington, DC 20301

Hon. Joseph E. Schmitz  
Inspector General  
Department of Defense  
1000 Defense Pentagon  
Washington, DC 20301

ADM Vern Clark, USN  
Chief of Naval Operations  
U.S. Navy  
2000 Navy Pentagon  
Washington, DC 20350

**Re: Naval Inspector General R. A. Route's Letter of 17 September 2004, In the Matter of Awards Granted to LT(jg) John Forbes Kerry, USNR.**

Reference: Paragraph 116.2, SECNAVINST 1650.1G

Gentlemen:

This letter appeals a decision by the Naval Inspector General ("IG"), Vice Admiral Ronald A. Route, not to investigate the awards and related conduct of John Kerry.

As we have yet to receive response to our letters from you requesting an investigation, we hope that the Naval IG's letter is not the final word on the matter.

Specifically, at 5:12 PM on Friday, September 17, 2004, IG Route transmitted a letter via facsimile (Enclosure 1) to our offices addressing limited aspects of a request for investigation Judicial Watch made on August 18 and September 8, 2004 concerning the awards and conduct of Lieutenant (junior grade) John Forbes Kerry, USNR.

**Secretary of the Navy Gordon R. England**  
**Re: Navy IG Route's Letter of 17 September, 2004**  
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A *Reuters* news report from 6:34 PM on Friday evening indicates IG Route communicated similar information to your office.<sup>1</sup> Judicial Watch did not release the IG's letter to the press until 8:40 PM on Friday. We learned subsequently that a Kerry campaign staffer was aware of the contents of the IG's letter on Friday afternoon. It is not clear to us how Senator Kerry's political campaign organization could become aware of the IG's letter before Judicial Watch.

In his letter, IG Route claims to have "**carefully examined** the process by which Senator Kerry was awarded the Silver Star, Bronze Star and three Purple Hearts in 1968 and 1969." [Emphasis added] According to publicly available records Senator Kerry did not receive any of the mentioned awards in 1968.

IG Route's letter states existing documentation was found indicating the awards approval process/procedure was followed properly. He claims that senior officers were operating under properly delegated authority for awarding medals and that procedures were correctly followed for approving the awards. No specific documentary examples (i.e. SECNAVINST, regulations, memoranda) were cited or offered as exhibits.

Now that the IG has concluded John Kerry's award paperwork was, to be blunt, properly stamped, a real investigation must commence. No serious investigation would merely examine whether the right individuals signed the right documents. The uninvestigated questions are whether the facts in the documents are correct, and if they are not correct, did John Kerry knowingly put forward these falsehoods. Furthermore, a careful investigation would also consider facts outside the documentary record, such as new sworn statements concerning Kerry's conduct. That is the reason Paragraph 116.2 of SECNAVINST 1650.1G exists. Paperwork, administration, signatures, filing and recordkeeping are neither the predicates for valorous conduct nor ends unto themselves. The Navy IG has elected to ignore Paragraph 116.2 and focus solely on process and procedure. In doing so he is derelict in his affirmative duty to investigate the credible substantive claims set forth in Judicial Watch's letters (and exhibits) of August 18 and September 8, 2004.

Paragraph 116.2 clearly states: "Any award for a distinguished act, achievement or service may be revoked . . . after presentation by SECNAV, if **facts subsequently determined, would have prevented the original approval of the award**, or if **the awardee's service after the distinguishing act, achievement or service has not been honorable.**" [Emphasis added]

Further, 10 U.S.C. § 6249 states: "No medal, cross, or bar, or associated emblem or insignia may be awarded or presented to any person or to his representative if **his service after he distinguished himself has not been honorable.**" [Emphasis added]

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<sup>1</sup> "Navy Rejects Probe of Kerry's War Medals," *Reuters*, Friday, September, 17, 2004, 06:34PM ET. (Enclosure 2)

**Secretary of the Navy Gordon R. England**  
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IG Route dismisses an investigation of the eyewitness accounts of officers, sailors and one medical doctor as an unproductive, unreliable reconstruction of facts and circumstances outside a[n] (undefined) contemporary context. There is no statute of limitations, as the Navy IG seems to suggest, for fraudulent medals and related conduct. IG Route's letter states: "Conducting any additional review regarding events that took place over thirty years ago would not be productive," and concludes saying that he would ". . . take no further action in this matter."

IG Route must explain what precisely he considers "productive," and how his subjective and political determination fulfills his official duty and obligation to investigate credible claims of fraud and misconduct. While the September 17<sup>th</sup> letter addresses the narrow subject of process and procedure, it is unconscionable for the Navy leadership to dismiss cavalierly the facts and circumstances documented by a former Secretary of the Navy, flag officers (Admirals Hoffman and Schachte), and nearly 300 commissioned officers, petty officers and sailors who served aboard swift boats in Vietnam. If medals are to have any meaning, the likely fraudulent obtaining of them must always be thoroughly investigated.

Additionally, IG Route asserts, without any substantiation, ". . . Senator Kerry's post-active duty activities were public and that military and civilian officials were aware of his actions at that time." Even if true, this would not be persuasive. Dereliction by officials in the past is no reason not to uphold the rules today. The fact that the Federal Bureau of Investigation was actively investigating Kerry (and the group Vietnam Veterans Against the War), as well as conducting clandestine surveillance of Kerry belies IG Route's assertion. In fact, publicly available FBI files and other reliable reports concerning Senator Kerry's anti-war activities reveal that there was, in fact, a great deal government officials did not know about his contacts, associates, and actions. And certainly unknown at that time was the negative impact of Kerry's pro-North Vietnamese and Viet Cong activities on our Prisoners of War in Vietnam.<sup>2</sup>

In another egregious omission, no discussion or explanation is provided in IG Route's letter as to how Senator Kerry's DD Form 214 lists a "Silver Star with Combat 'V,'" which is not an award in the United States Armed Forces. While IG Route offers undocumented assurances that procedures and processes were followed correctly, he fails to address former Navy Secretary John Lehman's categorical denial of approval of the citation for the republic's third highest award for heroism. In an August 27, 2004, interview for the *Chicago Sun Times*, Secretary Lehman stated: "It is a total mystery to me. I never saw it. I never signed it. I never approved it. And the additional language it contains was not written by me."

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<sup>2</sup> David Freddoso, "Stolen Honor Shows Kerry's Effect on POWs," *Human Events*, September 10, 2004, on the Internet at: <http://www.humaneventsonline.com/article.php?id=5050>

**Secretary of the Navy Gordon R. England**  
**Re: Navy IG Route's Letter of 17 September, 2004**  
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In an effort to document IG Route's examination, decisions and findings, we filed a Freedom of Information Act ("FOIA") request (pursuant to 5 U.S.C. § 552) with the Navy IG on September 20, 2004. We seek all agency records concerning:

- 1) The subject of Navy Inspector General Ronald A. Route's Letter response to Judicial Watch President Thomas Fitton, dated 17 September 2004. (Reference: 2040700, Ser N5/1348) (See Exhibit 1, attached)
- 2) Records of the Inspector General report, review, procedure examination, investigation, audit, inspection and/or findings predicated upon the subject of Judicial Watch's requests for investigation dated August 18 and September 8, 2004, and the subsequent Department of Defense Inspector General referral for "information and action as appropriate."
- 3) Name(s) of person(s) contacted, interviewed, consulted, deposed, or relied upon as an eyewitness, subject matter expert, historian or archivist for the matters identified in Items 1 and 2 above.
- 4) The legal and/or regulatory basis for the decisions of Navy Inspector General Ronald A. Route documented in Items 1 and 2 above.
- 5) Records, instructions, regulations, orders and other things that document the lawful delegation of authority, approval process and procedures for awards to LT(jg) John Forbes Kerry, USNR. (To include copies of the Navy Instructions and regulations for U.S. Naval Forces Vietnam and Pacific Fleet for the awards process the Navy Inspector General "carefully examined.")
- 6) Any award or decoration presented by the U.S. Navy to LT (jg) John Forbes Kerry in 1968.
- 7) Communication between the Navy Inspector General, the Defense Department Inspector General and the Secretary of the Navy concerning the matters identified in Items 1 and 2 above.
- 8) Communications with any party other than the Defense Department Inspector General and the Secretary of the Navy concerning the matters identified in Items 1 and 2 above.

**Secretary of the Navy Gordon R. England**  
**Re: Navy IG Route's Letter of 17 September, 2004**  
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We anticipate the Navy IG will reply substantively to our request in an expeditious manner consistent with the 10 day statutory requirement. Secretary England's support in ensuring full, rapid compliance with our request would be appreciated.

Finally, this letter serves as our formal request to meet with Secretary of the Navy Gordon R. England to discuss IG Route's letter and to review the factual basis for our complaint and request for investigation. Judicial Watch, in consultation with military, naval and historical experts, has produced additional briefing material, timelines and analyses concerning the subject of our request. We wish to provide a briefing to Secretary England and other appropriate Navy and/or Defense Department officials.

Thank you for your consideration and cooperation. We look forward to hearing from you shortly.

Sincerely,

JUDICIAL WATCH, INC.



Thomas Fitton  
President

CC: Defense Secretary Donald H. Rumsfeld  
Naval Inspector General Ronald A. Route

# Enclosure 1



DEPARTMENT OF THE NAVY  
NAVAL INSPECTOR GENERAL  
1014 N STREET SE SUITE 100  
WASHINGTON NAVY YARD DC 20374-5006

IN REPLY REFER TO:

2040700  
Ser N5/1348  
17 SEP 2004

Mr. Thomas Fitton  
President, Judicial Watch  
Suite 725  
501 School Street, SW  
Washington, D.C. 20024

Dear Mr. Fitton:

This responds to your letters of August 18 and September 8, 2004, requesting an investigation into Senator Kerry's military awards. By separate correspondence, the Inspector General, Department of Defense, who is also an addressee on your letters, referred your request to me for "information and action as appropriate."

In accordance with our established review procedures, we carefully examined the process by which Senator Kerry was awarded the Silver Star, Bronze Star, and three Purple Hearts in 1968 and 1969. We found that existing documentation regarding his medals indicates the awards approval process was properly followed. In particular, the senior officers who authorized the medals were properly delegated authority to do so. In addition, we found that they correctly followed the procedures in place at the time for approving these awards.

Conducting any additional review regarding events that took place over thirty years ago would not be productive. The passage of time would make reconstruction of the facts and circumstances unreliable, and would not allow the information gathered to be considered in the context of the time in which the events took place.

Our review also considered the fact that Senator Kerry's post-active duty activities were public and that military and civilian officials were aware of his actions at the time. For these reasons, I have determined that Senator Kerry's awards were properly approved and will take no further action in this matter.

Thank you for bringing your concerns to my attention.

Sincerely,

R. A. ROUTE

# Enclosure 2



## Navy Rejects Probe of Kerry's War Medals

Fri Sep 17, 2004 06:34 PM ET



WASHINGTON (Reuters) - The U.S. Navy has rejected a legal watchdog group's request to open an investigation into military awards given to Democratic presidential nominee John Kerry during the Vietnam War, saying his medals were properly approved.

"Our examination found that existing documentation regarding the Silver Star, Bronze Star, and Purple Heart medals indicates the awards approval process was properly followed," the Navy's inspector general, Vice Admiral Ronald Route, said in a memo written to Navy Secretary Gordon England.

"In particular, the senior officers who awarded the medals were properly delegated authority to do so. In addition we found that they correctly followed the procedures in place at the time for approving these awards."

In rejecting the request for an investigation made by Judicial Watch last month, Route said that "conducting any additional review regarding events that took place over thirty years ago would not be productive."

Kerry has been criticized by a group of Vietnam veterans called Swift Boat Veterans for Truth, about whether he earned the decorations Kerry's campaign has touted during his campaign for the presidency.

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# Enclosure 3

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# Human Events<sup>ONLINE</sup>™

## ***Stolen Honor Shows Kerry's Effect on POWs***

by David Freddoso  
Posted Sep 10, 2004

In some ways, Carlton Sherwood and John Kerry share the same story. Both served in Vietnam and earned three Purple Hearts.

Both were present on April 23, 1971--the day Kerry threw what he claimed then were his war medals over a fence at the U.S. Capitol. Kerry was there as an anti-war leader who had testified the day before that Americans were committing war crimes, "not isolated incidents, but crimes committed on a day-to-day basis with the full awareness of officers at all levels of command."

Sherwood was a cub reporter for the now-defunct Philadelphia *Bulletin*. He did not view the shaggy protesters in the same light Kerry did, and has never forgotten Kerry's testimony.

Thirty-three years later, the Pulitzer Prize-winning journalist has produced a 45-minute documentary film that could seriously damage Kerry's presidential hopes. The film focuses on Kerry and other anti-war leaders, and how their activities in the early 1970s affected American POWs in North Vietnam.

The movie *Stolen Honor* features interviews with 13 POWs who say they suffered ill-effects from the anti-war movement both during and after their captivity. One, Jim Warner, discusses how his North Vietnamese captors specifically made him read Kerry's 1971 testimony and tried to use it to browbeat a confession of war crimes out of him.

Sherwood admits in his film that as a Vietnam veteran he could not approach this topic dispassionately. "It's about a war I fought in and what I saw happening when I got back from it," he says. "It's about what I felt when I first saw and heard this," he says, cutting to Kerry's famous testimony before the Senate Foreign Relations Committee.

In that testimony, Kerry said the United States was the world's worst violator of the Geneva Conventions; that many American units tortured and murdered Vietnamese POWs; that U.S. forces murdered 200,000 Vietnamese every year.

Sherwood's documentary also shows about one minute of rare video footage from the Winter Soldier Investigation, an anti-war convention funded by Jane Fonda and organized partly by Kerry, who also participated as a moderator. The event, which took place in Detroit in late January 1971, included testimony from purported Vietnam Veterans about particularly brutal war crimes they allegedly committed--such as murdering Vietnamese POWs and, in one case, tricking a young child into drinking a can of helicopter hydraulic fluid.

Testimony from the men present at this event--many of whom were later exposed as frauds--formed the basis for Kerry's Senate testimony that April about war crimes committed by Americans in Vietnam.

The documentary includes one scene from the Winter Soldier footage in which three participants appear to be conspiring to fabricate testimony about the massacre of a village.

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