

Form D4-1. Preservation Demand and Data Request After an Aviation Incident Involving a Possible UAP

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When to use. Immediately after an aviation incident in which a UAP may have been present. **Not for:** Incidents with no federal or military data in play.

Deadlines. Send the same day. AIR21 complaint within 90 days of an adverse action (49 U.S.C. §42121(b)(1)); FTCA claim within two years (28 U.S.C. §2401(b)).

[Counsel letterhead]

[Date]

By email and overnight delivery

Federal Aviation Administration, Office of the Chief Counsel [and ATO Safety and Technical Training]

National Transportation Safety Board, Office of Aviation Safety [if investigating]

Commander, North American Aerospace Defense Command / U.S. Northern Command, Office of the Staff Judge Advocate

Advocate

[Commander, unit operating relevant sensors or aircraft], Office of the Staff Judge Advocate

Director, All-domain Anomaly Resolution Office

[Contractor operating relevant radar or sensors, General Counsel]

Re: Preservation of data concerning [aircraft registration / flight number], [date/time UTC], near [location]

I represent [client: pilot, operator, injured passenger, estate] concerning the [accident / incident / near midair collision] described above. There is reason to believe an unidentified object [was reported / was observed / may have been present] near the aircraft.

Please preserve, and suspend any routine deletion of, all records relating to the airspace within [50] nautical miles of [location] from [time minus 2 hours] to [time plus 2 hours], including:

1. primary and secondary radar data from all FAA, military, NORAD, and contractor sensors, including raw returns and tracks not displayed to controllers;
2. air traffic control audio, transcripts, and controller and supervisor logs, including any notification under FAA Notices N7110.800 and N7210.970 (or successor provisions) concerning unidentified anomalous phenomena;
3. NORAD and NORTHCOM track data, scramble or intercept records, and any summary prepared for briefings under 50 U.S.C. §3373(1)(5);
4. infrared, electro-optical, satellite, and other sensor data of the area and time;
5. reports to AARO and any AARO case file;
6. communications among agencies concerning the object or the incident; and
7. any instruction concerning the handling or classification of these records.

These records are also “unidentified anomalous phenomena records” that may not be destroyed or altered under Pub. L. No. 118-31, §1842(a)(2)(A) (44 U.S.C. §2107 note).

Please confirm within [7] days that the records have been preserved and identify a contact for each agency. Where records are classified, please preserve them under appropriate security and confirm that they are preserved.

NTSB. [If NTSB is investigating:] The Board investigates each accident involving civil aircraft, and each accident involving both military and civil aircraft with the participation of the military authorities (49 U.S.C. §1132(a)(1)), and its investigation has priority over other federal investigations (49 C.F.R. §831.5(a)(1)). We request that the Board obtain all available military and contractor sensor data for the area and time as part of its investigation.

Crew members. [If the client is a crew member of an air carrier:] [Client] reported the observation to [the carrier / air traffic control / the FAA] on [date]. [Client] is protected against discharge or discrimination for providing information about air carrier safety under 49 U.S.C. §42121. [Carrier] is asked to preserve all records of [client]'s report and of any action taken concerning [client]'s duties, medical certification, or employment since the report.

Nothing in this letter waives any claim. We will separately submit FOIA requests and administrative claims.

Sincerely,
[Counsel]

Drafting notes

- **AIR21 deadline.** A crew member disciplined after the report must file with OSHA within 90 days of the adverse action (49 U.S.C. §42121(b)(1)). Calendar it the day the action is known; do not wait for the preservation responses.
- **FTCA.** If the government's conduct may have contributed to the loss, file an SF-95 within two years (28 U.S.C. §2401(b); [Form D5-1](#)).
- **Military recipients.** Send the letter to the staff judge advocate of each command that may hold data. Some radar and sensor recordings are kept only briefly, so send the letter the same day.
- Related: [Issue D4](#), D5, B1; Forms B1-1, D5-1.