



DEPARTMENT OF THE NAVY

HUMAN RESOURCES OFFICE
368 SOUTH AVENUE
PENSACOLA FLORIDA 32508-5124

IN REPLY REFER TO:

HROPNCLAINST 5720.1
CODE 09A1

26 MAR 1996

HRO PENSACOLA INSTRUCTION 5720.1

From: Director, Human Resources Office (HRO), Pensacola

Subj: RELEASE OF INFORMATION TO MEMBERS OF THE PUBLIC UNDER THE
FREEDOM OF INFORMATION ACT (FOIA)

Ref: (a) SECNAVINST 5720.42B ~~42B~~ 42F
(b) SECNAVINST 5211.5G ~~5G~~ 5D
(c) SECNAVINST 5820.8A

Encl: (1) FOIA Exemptions

1. Purpose. To set forth policy and responsibility concerning the handling of requests for information under the Freedom of Information Act (FOIA).

2. Discussion

a. The FOIA, promulgated by reference (a), governs responses to written requests from members of the public for permission to examine, or to be provided with copies of, Department of the Navy (DON) records. Under the provisions of reference (a), "any person," which means that any individual, to include foreign citizens, partnerships, corporations, associations and foreign, state, or local governments, may use the FOIA to obtain information. The exception to that policy is that it does not apply to Federal agencies or to fugitives from justice.

b. Not all requesters of information are knowledgeable of the appropriate statutory authority to cite when requesting records. In some instances, they may not cite either the Privacy Act (PA) or the FOIA, but will imply one or both Acts. Specific guidance is provided by reference (a) to ensure that requesters receive the greatest amount of access rights under both Acts. If the requester has failed to cite the appropriate Act, activities shall apprise the requester in the final response under which Act his/her request was processed.

3. Definitions

a. FOIA Request. A written request for DON records, made by "any person," including a member of the public (U.S. or foreign citizen), an organization, or a business, but not including a Federal agency or a fugitive from the law that either explicitly or implicitly invokes reference (a).

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b. Agency Record. The products of data compilation, such as all books, papers, maps, and photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business, and in DON's possession and control at the time a FOIA request is made. Per reference (a), a record must exist and be in the possession and control of the DON at the time of the request to be considered subject to FOIA. There is no obligation to create, compile, or obtain a record to satisfy a FOIA request.

c. Public Interest. Official information that sheds light on an activity's performance of its statutory purpose of FOIA in informing citizens about what their Government is doing is considered to be of public interest. That statutory purpose, however, is not fostered by disclosure of information about private citizens that is accumulated in various governmental files that reveals little or nothing about an agency's or official's own conduct.

4. Policy. It is DON policy to make its records available to requesters under FOIA. When requested, naval activities shall assist requesters in complying with the administrative requirements necessary to request materials sought under the Act. The public has a right to information concerning the activities of its Government. DON policy is to conduct its activities in an open manner and to provide the public with a maximum amount of accurate and timely information concerning its activities, consistent always with the legitimate public and private interests of the American people. A DON record requested by a member of the public who follows rules established by proper authority shall only be withheld when it is exempt from mandatory public disclosure based on one or more of the nine FOIA exemptions.

5. General Information

a. Public Domain. Nonexempt records released under reference (a) are considered in public domain.

b. Exemptions. FOIA is a disclosure statute whose goal is an informed citizenry. Accordingly, records are considered to be releasable unless they contain information that qualifies for withholding under one or more of the nine FOIA exemptions. (See enclosure (1) for a list of exemptions.)

c. Time Limits. When a requester complies with FOIA procedures for requesting information, the request shall receive prompt attention. A reply shall be dispatched within 10 working days, unless a delay is authorized.

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d. Release Authority. The head of the activity or its designee is the release authority for FOIA requests for information. The release authority is authorized to furnish copies of records under its cognizance for which no FOIA exemption applies. HRO Pensacola's release authority is delegated to the Deputy Director and Service Center Managers.

e. Initial Denial Authority (IDA). An official who has been granted authority to withhold records under FOIA, either in whole or in part, based on the FOIA exemptions. Only the IDA may deny requests either in whole or in part, grant one lo-working day formal extension to the time limit for responding to FOIA requests, and deny requests to waive or reduce fees when the information sought relates to matters within its respective geographical areas of responsibility or chain of command. The IDA for HRO Pensacola is the Chief of Naval Education and Training (CNET Code 00J).

f. Minimum Requirements for Requesting Information Under FOIA. A request can be written or typed, but at a minimum should be in writing and indicate expressly or clearly imply that it is a request under reference (a) or (b) as applicable. Verbal requests are not honored. The request must contain a reasonable description of the particular record requested. Requests should contain a clear statement of the requester's willingness to pay all fees or those fees up to a specified amount if the fees are expected to exceed the minimum fee waiver threshold, or provide satisfactory evidence that he or she is entitled to a waiver or reduction of such fees.

g. Reasonably Describe the Records Being Sought. Identification of the records being sought is the responsibility of the requester. The requester must provide a description of the document that enables the Government to locate the record with a reasonable amount of effort. FOIA does not authorize "fishing expeditions."

h. Fees. Fees may not be used to discourage requesters. If fees are expected to exceed the minimum fee waiver threshold of \$15, the requester is required to address fees in the request.

i. Control. All requests for records which cite or imply the FOIA must be entered into a formal control system.

j. Documents Orisinated By/Created for Another Activity.

(1) If an official receives a request for records that he or she holds, but which was originated by another naval activity, the official shall normally coordinate with that activity prior to referring the FOIA request and copies of the requested documents to the originator for direct response.

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(2) If an official receives a request for records that he or she holds, but was created for another naval activity or Government agency, the official shall refer the FOIA request and copies of the requested documents to that activity/agency for direct response.

k. Misdirected Requests. A request which has been referred to an activity that does not have information which is responsive to the request. Before transferring the request to another activity, first contact the activity and confirm its cognizance over the requested information.

l. Notification to Requester. Under the circumstances identified in 5j and 5k above, the activity that initially received the request is responsible for notifying the requester of the referral.

m. Home Address. Home addresses are not releasable without the individual's consent because it is a clearly unwarranted invasion of the individual's personal privacy.

n. For Official Use Only (FOUO). FOUO is a marking which is placed on documents to alert the holder that they contain information that may be withheld under FOUO exemptions. FOUO is not a security classification.

o. Safeguarding FOUO Information. During normal working hours, records determined to be FOUO shall be placed in an out-of-sight location if the work area is accessible to nongovernmental personnel. At the close of business, FOUO records shall be stored to preclude unauthorized **access**. The safeguarding of media marked FOUO and processed by an ADP system, activity, or network is addressed by OPNAVINST 5239.1A, Department of the Navy Automatic Data Processing Security Program.

p. Disposal. Nonrecord copies of FOUO material (including hard copy reports and computer printouts) may be destroyed by tearing each copy into pieces to preclude reconstructing and disposed in regular trash containers. FOUO information on unclassified magnetic storage media shall be disposed of by overwriting the media one time with any one character.

q. Litigation. Official information requested which pertains to a litigation matter to which the United States is a present or potential party will be coordinated through CNET General Counsel and processed in accordance with reference (c).

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6. Responsibility

a. The Head of the Resources Management and Administrative Support Office is the HRO FOIA Coordinator and will direct requests to the proper officials for processing. The FOIA Coordinator is responsible for monitoring the overall program implementation and operation and for compiling the annual report.

b. HRO Pensacola Service Center Managers have delegated authority to release FOIA requests under their cognizance. Service Center Managers shall ensure that all subordinate personnel explicitly comply with the requirements of references (a) and (b) and fully understand the relationship between the two Acts when processing requests for information. Service Center Managers shall:

(1) Appoint a service center FOIA Coordinator to locally handle the tracking, processing, and coordinating of routine requests for information,

(2) Identify to HRO Pensacola the appointed coordinator and maintain direct liaison, as necessary, with the HRO Pensacola FOIA Coordinator to ensure the most effective and efficient program possible,

(3) Control and process FOIA requests in accordance with reference (a) and supplemental guidance provided by HRO Pensacola ensuring compliance with all applicable exemptions,

(4) Forward requests for denial of information to the HRO Pensacola, Resources Management and Administrative Support Department for forwarding to CNET Staff Judge Advocate for a release determination,

(5) Ensure that all personnel are fully aware of the provisions of references (a) and (b), understand the relationship between the two Acts when processing requests, and are familiar with the policies, procedures, and responsibilities associated with disclosure of information, and

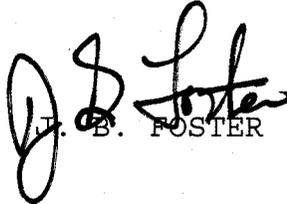
(6) Provide data for annual reporting of FOIA requests to HRO Pensacola upon request.

c. Department Heads will familiarize themselves and subordinate personnel with references (a) and (b) and this instruction. All written requests for information received under the FOIA shall be forwarded to the Resources Management and Administrative Support Department for coordination and reply.

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d. All personnel are responsible for safeguarding the information and rights of others and for adherence to the provisions of references (a) and (b) and this instruction.

7. Forms. Forms may be obtained by contacting HRO Pensacola, Resources Management and Administrative Support Department.



J. B. FOSTER

Distribution:

- 09A
- 09A1
- 09A21
- 09A22
- 09A23
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F O I A E X E M P T I O N S
(5 U.S.C. 552)

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- * (b) (1) - CLASSIFIED - Those properly and currently classified in the interest of national defense or foreign policy, as specifically authorized under criteria established by Executive Order and implemented by regulations.
- * (b) (2) - INTERNAL PERSONNEL RULES AND PRACTICES - Those related to the internal personnel rules and practices of an agency. This exemption has two profiles.
- * (b) (3) - EXEMPTED BY STATUTE - Those concerning matters which a statute specifically exempts from disclosure by terms that permit no discretion on the issue, or under criteria established by that statute for withholding or referring to particular types of matter to be withheld.
- * (b) (4) - TRADE SECRET/COMMERCIAL INFO - Those containing trade secrets or commercial or financial information that a naval activity receives from a person or organization outside the Government with the understanding that the information or record will be retained on a privileged or confidential basis.
- * (b) (5) - OPINIONS/RECOMMENDATIONS - Those records containing internal advice, recommendations, and subjective evaluations as contrasted with factual matters, that are reflected in records pertaining to the decision-making process of an agency, whether between agencies or between Department of Defense (DOD) and DOD components.
- * (b) (6) - PERSONAL PRIVACY - Information in personnel and medical files, and similar files, that if disclosed to the requester would result in a clearly unwarranted invasion of personal privacy.
- * (b) (7) - INVESTIGATORY RECORDS - Records or information compiled for law enforcement purposes, (i.e. civil, criminal, or military law, including the implementation of Executive Orders or regulations issued pursuant to law).
- * (b) (8) - FINANCIAL - Exempts those records contained in or related to examination operation, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.
- * (b) (9) - GEOLOGICAL DATA - Exempts those records containing geological and geophysical information and data, including maps, concerning wells.
- * NOTE: Contact the HRO Pensacola FOIA Coordinator for additional information.