

ONIINST 5720.1B
ONI-OCB
24 July 2003

ONI INSTRUCTION 5720.1B

Subj: FREEDOM OF INFORMATION ACT (FOIA) PROGRAM

Ref: (a) SECNAVINST 5720.42F
(b) OPNAVINST S5513.4D

Encl: (1) Explanation of FOIA Exemptions

1. Purpose. To establish policy and procedures for administration of the FOIA within the Office of Naval Intelligence (ONI).

2. Cancellation. ONIINST 5720.1A. This is a major revision and should be reviewed in its entirety.

3. Background

a. A FOIA request is a written request for records pursuant to Title 5 U.S.C. 552, as amended, and provides that any individual other than those representing a foreign government or its subsidiaries, upon submission of an appropriate request, have the right to review and copy records in the possession and control of any agency within the Executive Branch of the Federal Government, except for the Office of the President. Minimum requirements for a FOIA request are:

(1) That it be in writing and indicate that it is being made under FOIA regulations.

(2) That it contain a reasonable description of the records being requested, in order for a knowledgeable

agency person to identify and locate the records with reasonable effort in a reasonable amount of time.

(3) That it contain a clear statement of the requester's willingness to pay all applicable fees, or those fees up to a specified amount, or provide a justification to support a request for a fee waiver or deduction of fees.

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b. Department of Defense policy on FOIA procedures, to include applicable fees, for the Department of the Navy (DON) is provided in reference (a).

4. Policy

a. Within ONI, the Office of Legal Affairs (ONI-OCB) has responsibility for managing the FOIA Program and ensuring proper DON procedures are followed when in receipt of a written request for review and/or release of ONI "agency records." However, this does not relieve ONI employees from familiarizing themselves with the provisions set forth in reference (a).

b. ONI FOIA requests for agency records should be addressed to ONI (Attn: FOIA Program Manager (ONI-OCB)), 4251 Suitland Road, Washington, DC 20395-5720. Agency records are any products of data compilation, such as books, papers, maps, photos, machine readable materials, or documentary materials made or received by an agency of the U.S. Government under Federal Law in connection with the transaction of public business and in the DON's possession and control at the time a FOIA request is made.

5. Procedures

a. On behalf of the Secretary of the Navy, the Commander, Deputy Commander, Executive Director, and Staff Judge Advocate (SJAG) are delegated as Initial Denial Authorities (IDA) for ONI. The SJAG is the primary IDA for ONI and is the official responsible for the release or denial of ONI records.

b. ONI-OCB is responsible for ensuring legal time requirements for processing FOIAs are met and coordinating incoming FOIA requests with the command tasking office to task appropriate directorate(s). Tasked directorate(s) are responsible for searching and reviewing responsive documents.

c. For requests that require outside processing assistance, ONI-OCB will forward, as appropriate, and coordinate final responses.

d. Directorate tasking coordinators will have the lead for ensuring all appropriate directorate staff receive the FOIA and for coordinating consolidated responses to ONI-OCB.

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e. Personnel tasked to locate and review documents for public release must have an adequate understanding of classification guidelines as set forth in reference (b), as well

as familiarity with the subject matter of the records. If information is determined to be currently and properly classified, note the appropriate sections of reference (b) in the response. To preclude any security violations, a knowledgeable senior person will perform a secondary review of the information prior to the response to ONI-OCB.

f. Within 10 workdays, the directorate(s) are required to provide a written response to ONI-OCB with the appropriate directorate official signature. Responses will provide the directorate's(s') recommendations for release or denial of the information based on FOIA exemptions defined in enclosure (1). Time extensions must be approved by ONI-OCB.

g. ONI-OCB will review directorate's(s') recommendations to assure all material is addressed and/or sanitized as required and will draft all final response letters to the requester.

h. The directorate(s) will provide ONI-OCB with two copies of all responsive documents (one annotated copy and one clean copy).

i. Reference (a) directs the submission of an annual FOIA report to the Chief of Naval Operations (CNO) that accounts for all time spent on processing FOIA requests. To accurately report these costs, the directorate(s) will record the total time (to the nearest half hour) that each individual spent in processing the FOIA request on a Record of Freedom of Information (FOI) Processing Cost form (DD Form 2086) and return it to ONI-OCB. ONI-OCB will provide CNO with the annual FOIA report.

j. Enclosure (1) and DD Form 2086 will be provided with each FOIA request tasked by ONI-OCB.

k. ONI-OCB will maintain a record of each FOIA request, identifying pertinent information including the name of the requester, date of the request, nature of the request, disposition of information, and the date of release or denial of the information.

6. Forms. DD 2086 Forms may be obtained through the FOIA/Privacy Act Manager (ONI-OCB2) or on the Navy website at www.navy.mil.

VIVIAN L. TURNBULL
By direction

Stocked by:
ONI-OCD

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EXPLANATION OF FOIA EXEMPTIONS

EXEMPTION (b)(1). Protects from disclosure material that is currently and properly classified in the interest of national defense or foreign policy provided it is properly classified under Executive Order 12958. Information is properly classified if it concerns military plans, weapons systems, or operations; foreign government information; information on intelligence activities (including special activities), intelligence sources or methods, or cryptology; foreign relations or foreign activities of the United States, including confidential sources; scientific, technological, or economic matters relating to the national security; US government programs for safeguarding nuclear materials or facilities; or vulnerabilities or capabilities of systems, installations, projects, or plans relating to the national security. **NOTE (b)(1) DOES NOT APPLY TO UNCLASSIFIED INFORMATION.**

EXEMPTION (b)(2). Protects from disclosure information, which pertains solely to the internal personnel rules and

practices of the agency and you must cite the "rule or practice" that disclosure of the information would reveal.

EXEMPTION (b)(3). Protects information that is specifically exempt from disclosure by statute, public law or regulations. **NOTE (b)(3) DOES NOT APPLY TO ONI.**

EXEMPTION (b)(4). Protects from disclosure trade secrets or commercial and financial information obtained from a person on a privileged or confidential basis.

EXEMPTION (b)(5). Protects from disclosure advice, analysis, recommendations and opinions that are part of the decision making process that HAVE NOT been shared with someone outside the decision process. Exempted documents include notes that reflect the exchange of opinions or give-and-take between agency personnel and divisions of the agency.

EXEMPTION (b)(6) - Protects personal privacy information. Exemption 6 protects information about individuals in "personnel and medical files and similar files." This exemption cannot be invoked to withhold information pertaining to the requester.

Enclosure (1)

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EXEMPTION (b)(7). Protects from disclosure investigatory files compiled for law enforcement purposes which if disclosed would cause at least one of the six specified harms; would interfere with enforcement proceedings, would deprive a person of a fair trial or impartial adjudication, could reasonably cause an unwarranted invasion of personal privacy, could reasonably disclose the identity of a confidential source, and would disclose techniques and procedures for law enforcement investigations or prosecutions.

Enclosure (1)