



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

IN REPLY REFER TO

5720
Ser N09B10/1U512747
1 Mar 01

From: Chief of Naval Operations
To: Distribution List

Subj: FOIA POLICY ISSUES

Ref: (a) CNO ltr Ser N09B30/0U514194 of 25 Aug 00, subj: FOIA Issues
(b) SECNAVINST 5720.42F

Encl: (1) DFOISR memo, #01-CORR-010, of 16 Feb 01
(2) General Guidance for Use in Responding to FOIA Requests for Information about Distinguished Visitors (DVs) Embarked on Naval Vessels/Aircraft

1. In an effort to keep you apprised of changes to the FOIA and current interpretations, the following guidance is provided:

a. 10 U.S.C. 130b: Reference (a) addressed 10 U.S.C. 130b, a new (b)(3) statute that was passed to protect the names, ranks, duty addresses, official titles and pay information of DoD personnel (civilian and military) in overseas, sensitive, or routinely deployable units when this information is requested under FOIA. Enclosure (1) supplements that guidance. Specifically:

(1) DoD has advised that additional information (i.e., telephone numbers and e-mail addresses) should be withheld from disclosure on these individuals under 5 U.S.C. 552(b)(6).

(2) DoD components may make a discretionary release of names and duty information of personnel in overseas, sensitive, or routinely deployable units who, by nature of their position and duties, frequently interact with the public, such as flag/general officers, public affairs officers, or other personnel designated as official command spokespersons.

(3) This policy does not change the way public affairs officials do business and the rules under which public affairs offices release information to the general public and the rules under which public affairs offices release information to the general public and the media. Public affairs offices should continue to release information in accordance with current Defense Department directives and regulations, Service regulations, Privacy Act restrictions and security classifications.

b. E-FOIA: The General Accounting Office continues to review the government's compliance with E-FOIA. While we are making great strides in complying with E-FOIA, there are still some areas that require action. For example:

(1) FOIA Button or other Navigational Tool: Please ensure that the front page of your organization's web site has a FOIA button or search button that allows the visitor to easily navigate to your FOIA page.

(2) How to File a FOIA Request: Your FOIA web site should provide guidance to the public on how to file a FOIA request. It is also recommended that you accept electronic FOIA requests either by e-mail or by an electronic FOIA form posted on your site.

(3) Echelon 2 commands should ensure that they post a list of FOIA coordinators, their addresses, telephone numbers, fax numbers, etc for those activities under their command. Names for individuals who are overseas, routinely deployable or in a sensitive unit should not be posted, rather just list FOIA Coordinator.

(4) Echelon 2 commands shall ensure that they have an electronic reading room where frequently requested documents are placed (i.e., list of purchase card holders).

(5) Finally, if your organization's name does not appear on the Navy FOIA On-Line Points of Contact listing (foia.navy.mil), please email us at navyfoia@hq.navy.mil and apprise us of your url so the connection from our site to yours can be made.

c. As a result of the recent accident involving the USS GREENEVILLE, we have received numerous requests for information on Distinguished Visitors (DVs) who have embarked on naval vessels. Enclosure (2) provides guidance on the releasability of information pertaining to DVs.

2. Please ensure that this guidance receives prompt distribution to your field activities and public affairs officials. It will be posted on foia.navy.mil.

3. Pertinent information will also be included in the revision to reference (b).


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By direction
(202) 685-6545/DSN 325-6545

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FEB 16 2001



ADMINISTRATION &
MANAGEMENT

Ref: 01-CORR-010

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Withholding Personal Information of DoD Personnel

The Defense Authorization Act for FY 2000 granted the Secretary of Defense authority to withhold personal identifying information regarding personnel in overseas, sensitive, or routinely deployable units pursuant to the Freedom of Information Act (FOIA), Title 5 USC § 552(b)(3). This provision is codified at Title 10 of the United States Code at Section 130b.

This statute allows for the withholding of names, ranks, duty addresses, official titles, and pay information of DoD personnel (civilian and military) in overseas, sensitive, or routinely deployable units when this information is requested under the FOIA. Previously, such information was withheld under the FOIA (b)(6) exemption. Effective immediately, components should withhold the above described information by citing both the (b)(3) and (b)(6) exemptions. Although the statute does not address withholding telephone numbers and e-mail addresses, it is DoD policy in accordance with DoD 5400.7-R, section C3.2.1.6.2.2, to withhold the additional information of DoD personnel in these units under FOIA exemption (b)(6).

This policy does not preclude a DoD component's discretionary release of names and duty information of personnel in overseas, sensitive, or routinely deployable units who, by the nature of their position and duties, frequently interact with the public, such as flag/general officers, public affairs officers, or other personnel designated as official command spokespersons. Additionally, this does not change the way public affairs offices do business and the rules under which public affairs offices release information to the general public and the media. Public affairs offices should continue to release information in accordance with current Defense Department directives and regulations, Service regulations, Privacy Act restrictions and security classifications.

The point of contact for this policy is Mr. Jim Hogan, Directorate for Freedom of Information and Security Review, (703) 697-4026 or DSN 227-4026.

D. O. Cooke
Director

GENERAL GUIDANCE FOR USE IN RESPONDING TO FOIA REQUESTS FOR
INFORMATION ABOUT DISTINGUISHED VISITORS (DV'S) EMBARKED ON NAVAL
VESSELS/AIRCRAFT

1. It has come to our attention that a number of naval activities have received FOIA requests for information concerning DV's embarked on naval vessels or aircraft. These requests have generally requested the name, Social Security Number, home address or home town, affiliation or employer, purpose of visit, date of visit, name of the vessel visited, as well as information about who arranged the visit, for civilian DV's that have embarked on naval vessels or aircraft.
2. FOIA Exemption (b)(6) requires a balancing of the privacy interests, if any, against the public interest, if any, in release of this information. Public interest exists if the requested information "shed's light on an agency's performance of its statutory duties"; in other words, the requested records directly reveal information about the operations or activities of the agency. Where there is no privacy interest threatened by the requested disclosure, the information must be released unless otherwise exempt from disclosure under FOIA. Where privacy interests outweigh public interests in disclosure, the information may not be released, even as a matter of discretion.
3. Generally, there is no expectation of privacy in one's name or in the corporate name of an employer. On balance, the public interests in disclosure of information concerning DV embarks conducted at public expense would generally outweigh the DVs' privacy interests for the following requested information: employer, organization or affiliation, purpose of visit, date of visit, vessel visited, and information about who arranged the visit.
4. This general guidance applies in the absence of any law enforcement investigation (criminal, civil, or administrative) on-going at the time a FOIA request is received, where release of the requested information could impact the investigation. In cases of on-going law enforcement investigations, FOIA exemptions (b)(7)(A) and (B) may provide a basis for withholding the above information.
5. If an activity is considering denying release of DV information requested under FOIA, they are required to coordinate their response with CNO (N09B10), 202-685-6545, or navyfoia@hq.navy.mil prior to responding to the request.