



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

5720

IN REPLY REFER TO

Ser N09B30/0U514194

25 Aug 00

From: Chief of Naval Operations
To: Distribution List

Subj: FOIA ISSUES

Ref: (a) SECNAVINST 5720.42F

Encl: (1) E-FOIA Compliance Survey Update
(2) Section 508 of the Workforce Investment Act of 1998

1. In an effort to assess the Navy's compliance with E-FOIA, request addressees complete the E-FOIA Compliance Update Survey at enclosure (1) and fax it to this office by 6 Oct 00. Our fax number is (202) 685-6580/ DSN 325-6580.

2. We are working hard to ensure the Navy's FOIA Program complies with E-FOIA. To this end, we wish to apprise you of the following:

a. **Navy FOIA Web Site:** Our new site address is foia.navy.mil/. The site has been redesigned to improve the ease of navigation and now includes a search engine and FOIA training packages. It has also been redesigned to ensure compliance with Section 508 of the Workforce Investment Act of 1998 (see enclosure (2)). Please ensure that your web site is linked to ours.

b. **FOIA Response Letters:**

(1) We have placed new Sample FOIA Response Letters on our web site under "RESOURCES." If you would like other sample letters added, please advise.

(2) FOIA response letters serve as the administrative record for memorializing the processing of FOIA requests from cradle to grave. Because the response letter may be the only agency document considered during litigation, it is imperative that it be accurate and complete.

(3) We would also like response letters to be as explanative as possible to requesters when we deny information in whole or in part. For example, if you deny information under 5 U.S.C. 552(b)(6), you may wish to describe the kinds of information being withheld, i.e., we have withheld the home addresses, social security numbers, and dates of birth of other individuals since release would constitute a clearly unwarranted invasion of their personal privacy.

(4) "No Records" Responses: You are reminded that a "no records" response requires you to apprise the requester of his/her right to appeal the adequacy of search. When issuing a "no records" response, provide the requester with information regarding where the search was conducted and whenever possible cite the records disposal requirements for the records (see SECNAVINST 5212.5D).

(5) Appellate Addresses: The addresses for the Navy's appellate authorities have changed. They are:

Judge Advocate General (Code 14), 1322 Patterson Avenue SE, Ste 3000,
Washington Navy Yard, DC 20374-5066 and

General Counsel of the Navy, 720 Kennon Street SE, Room 214,
Washington Navy Yard, DC 20374.

(6) Fees:

(a) If you are charging fees, please apprise the requester of the fee category he/she has been placed and delineate the applicable fees that are being charged. For example, "You have been placed in the 'All Other Requester' Category for the purposes of fees. As such, you are entitled to the first two hours of search and 100 pages of duplication for free. The remaining fees consist of 1 hour of professional search at \$25 per hour and an additional 100 pages at \$.15 per page, for a total fee of \$40."

(b) A revised DD Form 2086 (Feb 2000) has been issued and is posted on our web site. While this form is primarily used to collect and report fees for processing FOIA requests, it is also used to identify fees waived or charged to a requester. Please note that not all the fees listed on the form may be charged to the requester. For example, coordination costs and correspondence/forms preparation costs cannot be charged to the requester, but are reported for use in compiling the Annual FOIA Report. Further, review costs may only be charged to commercial requesters.

c. Records Retention/Disposal:

(1) SSIC 5720 of SECNAVINST 5212.5D sets forth the disposal schedule for FOIA records. Any premature destruction or extended retention of records can result in civil penalties.

(2) Activities are reminded of the requirement to keep copies of all documents which have been totally or partially denied for 6 years and to have them readily identifiable/available for use in responding to a FOIA appeal. To ensure prompt responses to appellate authorities, initial denial authorities shall maintain an administrative record which includes a copy of the request, all correspondence used to respond to the request, and copies of both the excised and unexcised documents.

d. Reading Room Issues:

(1) CMC and Echelon 2 Commands should have Electronic Reading Rooms which are connected to the Navy's FOIA web site. If you do not have a "door" reflected on our site, please e-mail your Electronic Reading Room url to navyfoia@hq.navy.mil so it can be linked.

(2) E-FOIA requires agencies to place in their electronic reading rooms, copies of documents that have or are likely to become the subject of subsequent requests. For example, you will want to place your list of Impact Credit Card Holders in your reading room, as this is a frequently requested item..

e. **10 U.S.C. 130(b):** We formerly protected the names, duty station addresses, and e-mail addresses of individuals who are stationed overseas, in a routinely deployable or sensitive unit under exemption (b)(6) of the Freedom of Information Act. As a result of the passage of 10 U.S.C. 130(b), we now have a (b)(3) statute that requires us to protect this information. Accordingly, when denying such information, please cite exemption (b)(3) and 10 U.S.C. 130(b) as the basis for withholding this information. This change will be reflected in the next revision of reference (a).

f. **Annual FOIA Report:** Information concerning due dates, composite rate schedule, etc., which are applicable to preparing the Annual FOIA Report will be placed in the RESOURCES section of our web site at foia.navy.mil for your use in compiling the Annual FOIA Report.

g. **Department of Justice's Freedom of Information Act Guide and Privacy Act Overview books for May 2000:** We have distributed these books. If you did not receive a book, please fax your requirements and complete mailing address to Ms. Cassandra Bennett at (202) 685-6580.

3. Please ensure that a copy of this letter is disseminated to those activities that report to you.


DORIS M. LAMA

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

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E-FOIA COMPLIANCE SURVEY UPDATE

DATE: _____

TO: CNO (N09B30) FAX 202-685-6580/DSN 325-6580

FROM: Activity Name/POC Name/Phone Number:

- | YES | NO | |
|------------|-----------|---|
| _____ | _____ | Does your activity have a web site? |
| _____ | _____ | If yes, does it display a FOIA button or some other identification for the FOIA program? |
| _____ | _____ | Is it linked to the Navy's FOIA web site? |
| _____ | _____ | Do you provide guidance on your web site on how to submit a FOIA request? |
| _____ | _____ | Do you accept Electronic FOIA Requests either via an e-mail address or electronic FOIA form? If yes, identify which
_____ |
| _____ | _____ | Does your FOIA web site list the name, address, etc of your FOIA Coordinator? |
| _____ | _____ | Does it list lower echelon FOIA POCs? |
| _____ | _____ | Does it have linkages to those sites? |
| _____ | _____ | Do you have an Electronic Reading Room? |
| _____ | _____ | If yes, are your documents registered with GILS? |
| _____ | _____ | Do you have a Paper Reading Room? |
| _____ | _____ | If yes, are documents placed after 1997 registered in GILS? |
| _____ | _____ | Does your FOIA web site address frequently requested documents held by your activity? |
| _____ | _____ | Does your FOIA web site comply with Section 508 of the Workforce Investment Act of 1998? |