

DEPARTMENT OF DEFENSE



FREEDOM OF INFORMATION ACT PROGRAM *CY 1988*

SUMMARY OF THE REPORT TO CONGRESS

PREPARED BY:
OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
(PUBLIC AFFAIRS)
DIRECTORATE FOR FREEDOM OF INFORMATION
AND SECURITY REVIEW

**CY 1988 FREEDOM OF INFORMATION ACT
ANNUAL REPORT
HIGHLIGHTS**

A total of 98,700 public requests for records under the Freedom of Information Act (FOIA) were processed during 1988 by the Department of Defense. This, compared with an average annual case load of 69,534 for the years 1977-1987, the reporting period since the act was amended, is roughly 7% above average. Five thousand one hundred forty three cases required time limit extensions - 343 for location, 2575 for volume, 2174 for consultation and 51 for court involvement.

The Department of Defense initially denied 9,508 out of 98,700 requests on the basis of FOIA exemptions. Of those initially denied requests, 10% were for continued classification; 22% for internal rules and practices; 4% for statutory exemption; 9% for proprietary data; 17% for deliberative material; 23% for privacy information; and 18% for law enforcement investigations. An additional 21,319 requests could not be filled in whole or in part for other reasons, such as lack of records, referral to another agency, or lack of specificity sufficient to identify the requested records. There were 902 appeals of denied requests, 72 of which were fully granted, 237 partially granted, and 593 denied.

The total DoD operating costs associated with these requests were \$16,158,808.58. The average cost of processing a single case during 1988 was approximately \$371. Fee collections for records provided to the public amounted to \$1,144,998.01.

Questions regarding this report should be addressed to the Director, Freedom of Information and Security Review OASD (Public Affairs), Room 2C757, The Pentagon, Washington, DC 20301-1400.

Department of Defense
Reporting Agencies
under the Freedom of Information Act

Agency Abbreviation	Agency	Agency Head
OSD/JS	Office of the Secretary of Defense (Including the Joint Staff)	Hon Frank C. Carlucci, III
DEPT ARMY	Secretary of the Army	Hon John O.Marsh, Jr.
DEPT NAVY	Secretary of the Navy	Hon William L. Ball, III
DEPT AF	Secretary of the Air Force	Hon Edward C. Aldridge, Jr.
DCA	Defense Communications Agency	LTG John T. Myers, USA
DCAA	Defence Contract Audit Agency	Mr. William H. Reed
DIA	Defense Intelligence Agency	LTG Harry E. Soyster, USA
DIS	Defense Investigative Service	Mr. John Donnelly
DLA	Defense Logistics Agency	LTG Charles McCausland, USAF
DMA	Defense Mapping Agency	MGEN Robert F. Durkin, USAF
DNA	Defense Nuclear Agency	VADM John T. Parker, USN
NSA/CSS	National Security Agency/Central Security Service	VADM William A. Studeman, USN

Department of Defense
FOI Appeal and Program Officials

Agency Abbreviation	Appellate Authority	Program Agency Head
OSD/JS	HON J. Daniel Howard, Asst Sec Def Public Affairs	Mr. William M. McDonald Director, FOI and Security Review, OASD/ PA
Dept Army	General Counsel	Mrs. E. M. Miley, Acting Chief, Infor- mation Branch, HQUSAISC (AS-OPS-MRA)
Dept Navy	Judge Advocate General/ General Counsel for Secretary of the Navy	Mrs. Gwendolyn R.Aitken, PA/FOIA Coordinator
Dept Air Force	Mr. Robert J. McCormick, Admin Asst to the Secretary of the Air Force	Mrs. Anne Turner, OPR for Freedom of Information, Info Mgmt Division
DCA	LTG John T. Myers, USA Director	Mr. John T. Whealen, General Counsel
DCAA	Mr. John H. van Santen, Asst Director, Resources	Mrs. Elizabeth Kenny, Program Analyst
DIA	Mr. Gordon Negus, Executive Director	Mr. Robert C. Hardzog, FOIA Officer
DIS	Mr. John F. Donnelly, Director	Mr. Dale L. Hartig, Chief, Information/ Public Affairs
DLA	LTG Charles McCausland, USAF, Director	COL James J. Singsank, USA, Staff Director, Administrator
DMA	Mr. Edward Obloy, General Counsel	Mr. David L. Black, Director, Public Affairs

DNA

VADM John T. Parker,
USN, Director

LTC Samuel D. McKinney,
USA, Public Affairs
Officer

NSA/CSS

Mr. Gerald R. Young,
Deputy Director

Mr. Richard W. Gronet,
Director of Policy

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Item 1
Initial Determinations Resulting in not
Providing all or a Portion of Record Requested

Agency	Completed Public Requests	Completed Reportable Requests*	 Statutory Exemptions	+ Other	=	Total
OSD/JS	2,366	4,975		434		1,404
DEPT ARMY	20,536	21,728		2,765		3,737
DEPT NAVY	31,967	35,151		2,756		7,255
DEPT AIR FORCE	25,417	28,680		2,643		5,974
DCA	395	395		17		28
DCAA	377	710		40		420
DIA	1,188	1,861		276		236
DIS	372	357		72		166
DLA	15,221	18,757		181		1,268
DMA	125	133		20		37
DNA	105	189		67		49
NSA/CSS	631	638		237		222
DoD Totals	98,700	113,574		9,508		20,796
						30,304

* A reportable request is that portion of an FOI request resulting in a single record or group of records pertaining to one general subject area being acted upon by one Initial Denial Authority (IDA) who concludes that a single type of determination applies. Example: A single public request that requires the action of three IDAs in determining if a record under their jurisdiction is to be released would be counted as three reportable requests.

Item 2(a)
Exemptions Invoked on Initial Determinations

Exemptions by Number [552(b)]

Reporting Activity	1	2	3	4	5	6	7	8	9	Total*
OSD/JS	218	43	25	27	145	92	48	0	0	598
DEPT ARMY	197	1012	9	170	515	1231	609	0	0	3743
DEPT NAVY	200	618	65	252	445	783	587	0	0	2950
DEPT AIR FORCE	200	884	87	432	756	582	793	0	0	3734
DCA	0	0	0	17	0	3	0	0	0	20
DCAA	2	5	0	15	25	4	7	0	0	58
DIA	251	83	28	5	7	42	6	0	0	422
DIS	7	38	0	62	24	17	56	0	0	204
DLA	0	11	0	124	52	12	6	0	0	205
DMA	4	4	1	4	5	8	0	0	0	26
DNA	41	5	28	14	5	5	0	0	0	98
NSA/CSS	112	10	231	8	11	32	3	0	0	
DoD Totals	1232	2713	474	1130	1990	2811	2115	0	0	12058
Percent of Total	10%	22%	4%	9%	17%	23%	18%	0%	0%	100%

* Totals may not agree with item 1 because of cases where two or more exemptions were cited.

Item 2(b)
Statutes Invoked on Initial Determinations

Statute	Number of Times by Agency								DOD Total*
	OSD/ JS	ARMY	NAVY	AIR FORCE	DIA	DNA	NSA		
10 USC 128	0	0	0	2	0	0	0		2
10 USC 130	5	0	21	61	0	5	0		92
10 USC 140c, as added by Public Law 98-94	0	0	0	6	0	0	0		6
10 USC 1102	1	3	3	14	0	0	0		21
18 USC 798	11	0	19	0	0	0	58		88
22 USC 2778, Section 38	0	0	0	1	0	0	0		1
42 USC 2162	4	0	14	1	0	22	0		41
42 USC 4528	0	0	6	0	0	0	0		6
50 USC 402 note, Section 6, Public Law 86-36	2	6	2	2	0	0	195		207
50 USC 403(d) (3)	1	0	0	0	28	1	84		114
IG Act of 1978 as amended by Public Law 95-4524	1	0	0	0	0	0	0		1
Agency Totals	25	9	65	87	28	28	337		579

* Totals may not agree with 552(b)(3) exemptions because of cases where two or more exemptions were cited.

**Item 2(c)
Other Reasons Cited on Initial Determinations**

Category*

Reporting Activity	1	2	3	4	5	6	Total*
OSD/JS	662	492	87	31	109	23	1,404
DEPT ARMY	1,254	1,178	196	480	320	309	3,737
DEPT NAVY	3,317	2,109	594	754	120	361	7,255
DEPT AIR FORCE	815	2,809	333	852	701	464	5,974
DCA	3	11	1	5	6	2	28
DCAA	544	26	4	3	333	0	910
DIA	7	222	2	4	1	0	236
DIS	33	98	13	20	2	33	199
DLA	246	464	157	69	187	145	1,268
DMA	16	15	0	1	5	0	37
DNA	5	14	1	2	24	3	49
NSA/CSS	38	73	0	93	18	0	222
DoD Totals	6,940	7,511	1,388	2,314	1,826	1,340	21,319

***Types of Categories**

1. Transferred Request
 2. Lack of Records
 3. Failure of Requester to Reasonably Describe Record
 4. Other Failures by Requesters to Comply with Published Rules and/or Directives
 5. Request Withdrawn by Requester
 6. Not an agency record
- (See following page for description of each category.)

"OTHER REASONS" DESCRIBED

1. Transferred Request (Appeal):

This category applies when responsibility for making a determination or a decision on categories listed below is shifted from one Component to another Component/Agency.

2. Lack of Records:

This category covers situations wherein the requester is advised the agency has no record, or has no statutory obligation to create a record.

3. Failure of Requester to Reasonably Describe Record:

This category is specifically based on Section 552(a)(3)(A) of the FOIA.

4. Other Failures by Requesters to Comply with Published Rules and/or Directives:

This category is based on Section 552(a)(3)(B) of the FOIA and includes instances of failure to follow published rules concerning time, place, fees and procedures.

5. Request (Appeal) Withdrawn by Requester:

This category covers situations when the requester asks an agency to disregard the request (or appeal) or pursues the request outside FOIA channels.

6. Not an Agency Record:

This category indicates the requested information is not an agency record.

Item 3(a)
Initial Denial Officials by Participation
(Agency Reports List Names and Titles)

Exemption Denials

Agency	Number of Officials Categorized by Instances of Participation							Total* Officials
	OFFICIALS AUTHORIZED	NUMBER OF INSTANCES						
		1	2-3	4-5	6-10	11-40	41+	
OSD/JS	64	20	25	8	2	8	0	63
DEPT ARMY	32	7	7	0	3	7	9	33
DEPT NAVY	312	11	24	21	26	34	9	125
DEPT AF	132	22	24	10	24	25	21	126
DCA	2	0	0	0	0	1	0	1
DCAA	10	2	5	0	1	1	0	9
DIA	1	0	0	0	0	0	1	1
DIS	1	0	0	0	0	0	1	1
DLA	45	6	6	7	1	5	1	26
DMA	13	0	1	1	0	14	0	16
DNA	3	2	0	0	0	0	1	3
NSA/CSS	3	0	0	0	1	0	2	3
DoD Total	618	70	92	47	58	95	45	407

*Total officials may exceed number authorized due to personnel turnover.

Item 3(b)
Initial Denial Officials by Participation
 (Agency Reports List Names and Titles)
 (cont'd)

Other Authority Denials*

Agency	Number of Officials Categorized by Instances of Participation						Total* Officials
	1	2-3	4-5	6-10	11-40	41+	
OSD/JS	10	8	6	6	19	8	57
DEPT ARMY	0	0	0	20	53	15	88
DEPT NAVY	13	13	7	17	37	24	111
DEPT AF	0	2	1	1	4	17	25
DCA	3	0	0	0	1	0	4
DCAA	0	1	0	2	5	2	10
DIA	0	0	0	0	0	1	1
DIS	0	0	0	0	0	1	1
DLA	1	3	1	2	9	6	22
DMA	2	0	1	1	2	0	6
DNA	0	0	0	0	0	1	1
NSA/CSS	0	0	0	0	1	2	3
DoD Totals	29	27	16	49	131	77	329

*Other category determination processing is not limited to statutory exemption denial authorities.

Item 4
Number of Appeals and Results

Number of Appeals

Reporting Activity	Granted	Granted in Part	Denied	Totals*
OSD/JS	7	22	10	39
DEPT ARMY	22	46	185	253
DEPT NAVY	21	93	169	283
DEPT AF	13	56	179	248
DCA	0	0	0	0
DCAA	3	0	6	9
DIA	0	5	18	23
DIS	0	0	2	2
DLA	3	9	9	21
DMA	0	0	1	1
DNA	0	0	0	0
NSA/CSS	3	6	14	23
DoD Totals	72	237	593	902

Item 5(a)
Exemptions Invoked on Appeal Determinations
Exemptions by Number [552(b)]

Reporting Activity	1	2	3	4	5	6	7	8	9	Total*
OSD/JS	12	4	0	1	12	4	8	0	0	41
DEPT ARMY	16	61	2	17	102	96	50	0	0	344
DEPT NAVY	55	55	6	1	75	74	58	0	0	324
DEPT AIR FORCE	5	69	10	32	102	51	55	0	0	324
DCA	0	0	0	0	0	0	0	0	0	0
DCAA	1	0	0	0	1	1	4	0	0	7
DIA	23	4	2	0	1	4	0	0	0	34
DIS	4	5	0	1	4	4	8	0	0	26
DLA	0	1	0	7	13	3	3	0	0	27
DMA	0	0	0	0	1	0	0	0	0	1
DNA	0	0	0	0	0	0	0	0	0	0
NSA/CSS	17	3	19	0	0	5	2	2	0	48
DoD Totals	133	202	39	59	311	242	188	2	0	1176
Percent of Total	11%	17%	3%	5%	26%	21%	16%	0%	0%	100%

*Totals do not agree with item 4 because of cases where two or more exemptions were cited.

Item 5(b)
Statutes Invoked on Appeal Determinations

Statute	Number of Times by Agency						DOD Total*
	ARMY	NAVY	AIR FORCE	NSA	DNA	DIA	
10 USC 130	0	0	5	0	0	0	5
10 USC 1102	2	3	3	0	0	0	8
18 USC 798	0	0	0	17	0	0	17
42 USC 2011	0	3	0	0	0	0	3
50 USC 402	0	0	0	0	18	0	18
note, Section 6, Public Law 86-36							
50 USC 403(d) (3)	0	0	0	15	0	2	17
Agency Totals	2	6	8	32	18	2	68

*Totals may not agree with 552(b)(3) exemptions because of cases where two or more exemptions were cited.

**Item 5(c)
Other Reasons Cited on Appeal Determinations**

Category*

Reporting Activity	1	2	3	4	5	6	Total*
OSD/JS	10	1	0	1	5	1	18
DEPT ARMY	8	25	27	2	0	0	62
DEPT NAVY	41	16	6	21	6	1	91
DEPT AIR FORCE	0	0	0	0	0	0	0
DCA	0	0	0	0	0	0	0
DCAA	0	0	0	0	0	0	0
DIA	0	0	0	0	0	0	0
DIS	0	0	0	0	0	0	0
DLA	1	4	0	0	1	0	6
DMA	0	0	0	0	0	0	0
DNA	0	0	0	0	0	0	0
NSA/CSS	0	0	0	0	0	0	0
DoD Totals	60	46	33	24	12	2	177

***Types of Categories**

1. Transferred Appeal
 2. Lack of Records
 3. Failure of Requester to Reasonably Describe Record
 4. Other Failures by Requesters to Comply with Published Rules and/or Directives
 5. Request Withdrawn by Requester
 6. Not an agency record
- (See page 5 for full description of "other reasons".)

ITEM 6

PARTICIPATION OF APPELLATE AUTHORITIES
(Those Responsible for Denials in Whole or in Part)

NAME	TITLE	NO. OF INSTANCES OF PARTICIPATION	
		EXEMPTION	OTHER
OSD/JS			
J. Daniel Howard	Assistant Secretary of Defense (Public Affairs)	7	3
Fred S. Hoffman	Principal Deputy Assistant Secretary Defense (Public Affairs)	11	2
William E. Hart	Deputy Assistant Secretary Defense (Public Affairs)	2	0
William M. McDonald	Director, Freedom of Information and Security Review	0	4
DEPARTMENT ARMY			
Susan J. Crawford	General Counsel	344	62
DEPARTMENT NAVY			
RADM E.D. Stumbaugh, USN	Judge Advocate General (JAG)	82	7
RADM H. D. Campbell, USN	JAG	4	0
RADM, W. L. Schachte, USN	Acting JAG	5	0
CAPT J. L. Hoffman, USN	Acting JAG	214	8

CAPT R. C. Berkley,USN	Deputy Assistant JAG (General Litigation)	0	62
CDR, R. W. Scholz, USN	Acting DAJAG (General Litigation)	0	13
J. Wilcox	Acting General Counsel	19	0
L. L. Lamade	General Counsel (Designate)	0	1
DEPARTMENT AIR FORCE			
Steven A. Thompson	Deputy Administrative Assistant Office of the Secretary of the Air Force	247	0
Robert J. McCormick	Administrative Assistant to the Secretary of the Air Force	1	0
DCAA			
John van Santen	Assistant Director, Resources	9	0
DIA			
Gordon Negas	Executive Director	20	0
L. A. Prombain	Acting Executive Director	2	0
RADM Schmitt	Deputy Director	1	0
DIS			
John F. Donnelly	Director, DIS	2	0
DLA			
LTG W. M. Russo	Director, DLA	5	0
MG H. N. Campbell	Deputy Director, DLA	1	0
RADM D. W. McKinnon, Jr.	Deputy Director, DLA	6	0
MG C. R. Henry	Deputy Director, DLA	6	0

K. W. Kabeiseman	Director, DLA-G	0	3
DMA			
Edward J. Obloy	General Counsel	1	0
NSA			
Louis Bonanni	Chief of Staff	1	0
Gerald Young	Deputy Director	21	1

ITEM 7

COURT OPINIONS AND ACTIONS TAKEN

OSD/JS

Crowell and Moring v. Department of Defense, et al, Civil Action No. 87-3432, D.C.C., 12 January 1989. Plaintiff sought to compel the Inspector General, Department of Defense to release documents pertaining to the Defense Reutilization and Marketing Service's solicitation and bidding records that it had concerning sale of surplus explosives. Documents were withheld pursuant to exemption 7(A) and 7(D) for an ongoing criminal investigation. The court ruled in favor of the Inspector General, Department of Defense on 29 January 1989.

National Security Archive v. DOD, Civil Action No. 86-3454, D.C.C., 16 June 1988. The National Security Archive filed suit against DOD for not recognizing them as a preferred FOIA requester, i.e., an "educational institution" and a "representative of the news media". DOD maintained that under the Freedom of Information Reform Act of 1986, this organization qualified as the "other" type of requester. Summary judgment in favor of DOD was issued on 16 June 1988. Case is now on appeal in the U.S. Court of Appeals, D.C.C.

Herbert L. Fenster v. Department of Defense, Civil Action No. 88-1189, D.C.C., 2 May 1988. Plaintiff sought access to all documents written or used by the Under Secretary of Defense for Acquisition in determining that a fixed-price contract is appropriate for the HARM low-cost seeker full-scale development program. After the lapse of 10 working days, plaintiff filed this instant suit. Documents were provided during the course of litigation. Joint stipulation for dismissal filed 29 July 1988.

Washington Post v. Department of Defense, Civil Action No. 84-2403, D.C.C., 15 April 1988. Plaintiff filed litigation to obtain classified and deliberative information regarding trips to El Salvador in 1981 and 1982 by two key Department of Defense officials. Motion for summary judgment in favor of defendant granted 15 April 1988.

Washington Post v. Department of Defense, Civil Action No. 84-2402, D.C.C., 11 April 1988. Plaintiff filed litigation seeking disclosure of classified and deliberative documents pertaining to U.S. foreign policy in Central American, Cuba and the Caribbean. A motion for summary judgment was granted in favor of defendant granted 15 April 1988.

ARMY

Parnell v. Recruitment and Placement Branch of the Civilian Personnel Office, Civil Court 88-C0143S, U.S. District Court, Northern District of Alabama. Plaintiff requested under FOIA the names of other employees who sought voluntary downgrades with their respective grade, step, and salary levels prior to and after the downgrade. All the information was provided except for the names of the individuals involved in the various downgrade actions. The names were not released because the privacy interests of the other downgraded personnel outweighed any public interest in disclosure. The parties entered into a settlement agreement in which plaintiff received \$400 attorney fees, plus court costs.

Moran v. Doctor, Case File 88-1837, D.D.C. Plaintiff filed a pro se suit against LTG Doctor, the Department of the Army Inspector General, in his individual capacity, seeking release of an IG investigation addressing the cancellation of a position for which plaintiff had been selected. On 3 October 1988, the court dismissed the complaint without prejudice, finding that a government agency is the only proper party-defendant in a FOIA action.

Moore v. Department of the Army, Case File Number 88-00114, U.S. District Court, Hawaii filed 26 February 1988. Plaintiff sought release of a 15-6 Investigation and the Commander's Inquiry relating to the death of her husband at the Tripler Army Medical Center. The complaint was dismissed on 27 May 1988.

McAllister v. Johnson, Civil Action 86-1692, U.S. District Court, Middle District of Pennsylvania filed 28 November 1986. Plaintiff alleged improper withholding of requested military police records concerning his daughter. On 24 March 1988, court granted government's dispositive motion.

Interstate Diesel Service v. Department of Defense, Case File Number C88-2528, U.S. District Court, Northern District of Ohio filed 17 July 1988. Plaintiff sought review of Army Material Command's denial of commercial information. Plaintiff wanted to include the information as part of its disappointed bidder suit before the GAO. The commercial information concerned a contract for the manufacture of plunger and bushing assemblies for diesel injectors. On 30 September 1988, the case was dismissed with prejudice after plaintiff was furnished some of the information requested.

Goldstein v. Office of the Independent Counsel, Case File Number 87-2028, U.S. District Court for the District of Columbia, filed 22 July 1988. Plaintiff, a defendant in U.S. v. Lyndon LaRouche, et al., alleges that the Army failed to respond to a FOIA request. On 28 July 1988, the court granted the Government's Motion for Summary Judgment.

Spiegel v. Department of the Army, Case File Number 87-0115LA, U.S. District Court, Western District of Kentucky, filed 25 February 1987. Plaintiff requested documents under FOIA from the Corps of Engineers concerning performance of affirmative action plans over a 10-year period. On 19 August 1988, the court granted the government's Motion for Summary Judgment.

Campbell v. Secretary of Agriculture, Case File Number 88-0860, U.S. District Court for the District of Columbia, filed 28 April 1988. Plaintiff sought any and all agency records relating to the adverse effects caused by hydroelectric energy transmission lines and substations. Plaintiff also sought a FOIA fee waiver. On 28 September 1988, the court ruled in favor of the defendants.

George v. Department of Defense, Case File Number C871315A, U.S. District Court, Northern District of Georgia, filed 27 October 1987. Plaintiff challenged the Army's denial of his FOIA request for an appraisal report prepared in connection with the Army's lease of property to a sailing club at Lake Lanier, Georgia. The report was denied based on Exemption 5 of the FOIA, which authorized withholding "inter-agency or intra-agency memoranda or letters which would not be available by law to a party... in litigation with the agency. On 4 October 1988, the complaint was dismissed without prejudice.

United Association of Journeymen and Apprentices Local 598 v. Department of the Army, U.S. District Court, Western District of Washington, Case File Number 85-375JLQ, filed 13 May 1985. Plaintiff labor union local sought copies of the certified payrolls submitted by two contractors performing work on the Corps of Engineer's McNary Dam project. The complaint alleged that one request for records was denied and the other request was never answered by the Army. The court granted plaintiff's complaint. On 14 September 1988, it was decided not to appeal the adverse decision.

Wynn v. United States, Case File 87-5133, U.S. District Court for the District of Columbia filed 27 April 1987. Plaintiff claims that the defendants failed to conduct a proper search following his FOIA request. Plaintiff also filed the following other FOIA complaints: CA 87-0533, CIS; CA 87-0554, INSCOMP; CA 87-0555, Information Access Office (Edginton); CA 87-0557, Crime Records Center; CA 87-569, ACSI; and CA 87-0574, Secretary of the Army. On 27 June 1988, the court ruled in favor of defendant. Case was appealed in the United States Court of Appeals for the District of Columbia Circuit, Case File Number 88-5247. On 20 December 1988, the court granted the government's Motion for Summary Affirmances of the consolidated appeal of all plaintiff's FOIA cases. The court ruled that the Army was entitled to prevail because the searches conducted were adequate and therefore reasonable.

Roofers and Waterproofers AFL-CIO Local 190 v. Department of the Army, Case File Number A85-311, U.S. District Court for the District of Alaska filed 28 June 1985. Plaintiff sought disclosure of payroll records. Release was denied based on a determination that the payroll records were confidential business information exempt from release. On 12 November 1987, the court enjoined the Department of the Army from releasing to plaintiff any information contained in the weekly certified reports submitted by intervenor, Walsky Construction Co., Inc., except for the names and hourly rates of pay of all workers whose names appeared on the reports.

General Dynamics Corp. v. Department of the Army, Case File Number 86-0522-FFF, U.S. District Court of California, filed 9 January 1986. Plaintiff alleged that it made two FOIA requests and that the Army failed to respond to them within the 10-day period provided for in the Act. Plaintiff sought

to enjoin the Army from further delay in the release of the documents and to prevent the transfer of the documents to the Justice Department for use in the criminal fraud prosecution of plaintiff. On 30 March 1988, the parties entered into a Settlement Agreement and the court approved a Joint Stipulation of Dismissal.

Army Times Publishing Company v. Department of the Army, Case File Number 87-2866, U.S. District Court for the District of Columbia, filed 23 October 1987. Plaintiff requested the production of a magnetic tape listing the name, pay grade, and installation, including state and zip code, of all active duty Army personnel within the continental United States. Plaintiff alleged that the tape was improperly withheld under Exemption 2 of the FOIA. On 2 May 1988, the Court ruled in favor of the plaintiff. The court order, however, does not require release of information concerning personnel assigned to "sensitive or routinely deployable units." The Court further held that the tape is not information "related solely to the internal personnel rules and practices of the agency" deserving protection under Exemption 2. It also found that the release of the information is in the "public interest".

Bevis v. Department of the Army, Case File Number 87-1893, U.S. District Court for the District of Columbia, filed 13 July 1987. The Initial Denial Authority determined that plaintiff's FOIA request for the documents above was exempt from disclosure under Exemption 1 of the FOIA. OGC denied the plaintiff's appeal, stating that the IDA's reply should be considered as a refusal to confirm or deny the existence or nonexistence of the requested information. On 16 September 1988, the court granted defendant's Motion for Summary Judgment, finding that the Army had complied with its obligations under FOIA and acted in good faith.

NAVY

Solar Turbines, Inc v. Department of the Navy, D.D.C. No 86-2284, filed 19 August 1986. Plaintiff brought suit because NAVSEA failed to issue a timely response. On 20 November 1986, the Court granted a stay until 31 July 1987 to allow NAVSEA to complete administrative processing of the request. On 19 October 1987, the Court ordered NAVSEA to process certain documents according to a 90 day schedule. Case presently open for negotiations on processing latest document requests.

Todd Shipyards Corp v. Defense Contract Audit Agency, et al., D.D.C. No. 86-1157, filed 25 April 1986. Plaintiff filed suit to compel release of an audit report, alleging agency failure to respond in a timely manner. Defendant claimed exemption (b) (7) (A). Court held defendant justified in not releasing audit report. Plaintiff filed motion for reconsideration. Defendant did not oppose motion. Court denied motion. Case closed on 23 June 1988.

Todd Shipyards Corporation v. Defense Contract Audit Agency and Naval Sea Systems Command, C. A. No 87-2041TJH, filed 31 August 1987. Plaintiff brought suit requesting the Court to order the defendants to make available documents requested under FOIA to plaintiff. NAVSEA processed the audit reports referred by DCAA. With respect to the request directed to NAVSEA, it has filed a motion to stay proceedings. Status call is scheduled for 10 April 1989.

Colonial Trading Corp. v. Department of the Navy, D.D.C. 87-1406 GHR, filed 22 May 1987. Plaintiff filed suit to compel release of unclassified government-owned technical data pursuant to FOIA, Small Business Act, and Armed Services Procurement Act. Motion for summary judgment is due 1 February 1989.

Alan Washburn v. Department of the Navy, D.D.C. 87-2283SSH, filed 17 August 1987. Plaintiff brought suit alleging Navy failed to respond to his FOIA request. Navy responded that plaintiff failed to exhaust his administrative remedies, ie., Navy never received an FOIA request; the plaintiff knew the correct address for his FOIA request; and, the address the plaintiff alleges he sent the request was improper. The documents were subsequently released, and the Navy advised the court that plaintiff has been provided the documents he requested. Case dismissed on 27 June 1988.

Quarles v. Department of the Navy, Civil No. 85-3395, D.D.C. Plaintiff seeks all information submitted to the Secretary of the Navy concerning his decision on Gulf Coast Homeporting. Government motion for summary judgment was filed 23 December 1985. Plaintiff filed a motion to compel a Vaughn index of all information considered by the Navy in making the decision. He asserted that the Navy unilaterally narrowed his request. On 27 May 1987, the court remanded back to the Navy for reprocessing the request. Motion for summary judgment was granted on 29 July 1988.

Falzone v. Department of the Navy, No. 85-3862, D.D.C. Plaintiff, a real estate agent from Pensacola, Florida,

challenged DOD and DON FOIA policy that mandates withholding of names and duty addresses of active duty service members stationed overseas or with deployable or sensitive units. On 16 October 1986, the court granted the Government's motion for summary judgment recognizing that the potential for terrorist attacks and threats against those service members justifies such withholding. On 21 November 1986, the court denied plaintiff's motion to amend the decision and reemphasized that, considering the threat potential to service members, release of the requested information would constitute an unwarranted invasion of their privacy. Falzone filed a notice of appeal on 1 December 1986. Stay is pending decision of two other similar cases. Falzone originally filed suit against DON on 6 November 1985. The next action was due on 30 August 1988.

Wallace-Hoskins Corp. v. Department of the Navy, R86-796 (D.Md.). Plaintiff sought an injunction directing the Navy to cease withholding portions of a personal injury/death report regarding the 1981 industrial accident at Long Beach Naval Shipyard, (i.e., the accident investigator's assessment of cause factors and recommendations). Access was denied under exemption (b) (5), since disclosure would reveal the deliberative process of the investigator. Defendant's motion for summary judgment is pending.

Kimberlin v. Department of the Navy, No. IP82-1507C (S.D. Ind.). Plaintiff, an inmate at the Federal Penitentiary in Terre Haute, Indiana, brought suit under the FOIA, seeking a document consisting of two pages which pertained to him. The information in the document was gathered by the FBI and furnished to the Naval Security and Investigative Command as a part of routine field liaison between the two agencies. Plaintiff is not now, and has not been, the subject of a NIS investigation. The information was withheld at the request of the FBI, as they do have an ongoing investigation regarding the plaintiff, and the information on the two-page document is also contained in their investigatory files. The Navy should be dismissed as a party defendant since the record is not a Navy "agency record." A motion for summary judgment was granted. Plaintiff has appealed to the seventh circuit from the Entry and Memorandum of Decision entered on 21 September 1983. The appeal is pending seventh circuit action.

Hayes International Corp. v. Department of the Navy, No. 86-T-1129-S, (MD Ala.). Plaintiff brought action against Navy on 1 October 1986 seeking release of various documents related to an aviation mishap. We contend that plaintiff

failed to show that he had appealed and exhausted his administrative remedies. Plaintiffs conducting discovery which was to be completed by 2 September 1987. Motion to supplement the record was filed in December 1987. A motion for summary judgment was granted on 14 June 1988.

Lind v. Department of the Navy, No. 80-0338 (D. HI.). Plaintiffs, representatives of various public interest groups, seek three Navy Weapons Evaluation Facility, Albuquerque, NM, reports of accidents and incidents involving nuclear weapons. Navy maintains they are classified and exempt from disclosure. In February 1984, the Navy moved for summary judgment. This motion was denied in April 1985 and the case was set for trial in November. In September 1985, after additional review by the Navy of the requested documents, portions were released and a motion was made to vacate trial date. This motion, along with summary judgment as to a segment of the material, was granted in October 1985. Navy was ordered to prepare a detailed Vaughn index of the reports, indicating application of FOIA exemptions to the remaining withheld portions. Upon review, Naval Sea Systems Command Authorized Total Release and Navy entered into a settlement agreement. Upon further review by the Vice Chief of Naval Operations, documents were still deemed to be classified and the Navy attempted to rescind the settlement. On 18 December 1985, plaintiff moved for specific performance. On 10 February 1986, the court denied plaintiff's motion and allowed the Navy to rescind the settlement. In June 1986, the court granted, in part, the Navy's motion for summary judgment and required additional submission concerning remainder of the document. The plaintiffs moved for award of attorney's fees, and \$15,000 was granted on 20 January 1987. The Government will seek an appeal. The DON's motion for a summary judgment was partially granted on 16 February 1988.

Vietnam Veterans of America et. al. v. Department of Navy, et al., No. 86-0357, D.D.C. FOIA litigation commenced by two veterans organizations (represented by Bart Stichman) against Navy and Army. Action seeks publication or indexing of JAG opinions promulgated since 4 July 1967 that are subject to 5 U.S.C. 552(a)(1) or (a)(2). Plaintiffs contend that certain opinions are either statements of general policy, final opinions, or policy and interpretations that have been adopted by the Navy/Army and, therefore, under that statute, must be published in the Federal Register or made available in a public reading room. A motion for summary judgment was granted on 21 June 1988. No indexing is required.

John Jenoriki v. Department of Navy, D.D.C. NO 88-1593, filed 29 July 1988. Plaintiff brought suit because the NAVSEA would not process his FOIA request due to his failure to agree to pay search fees and because his request was too broad. Court found no records had been withheld as plaintiff failed to make a proper FOIA request at the agency level. Defendant's motion to dismiss granted.

Federal Electric Corporation v. Caspar Weinberger, et. al., D.D.C. No 187-1747. On 29 February 1988, DON released data plaintiff considered "proprietary" to a FOIA requester. Plaintiff brought suit alleging violations of the FOIA. Suit was dismissed without prejudice on basis it was not ripe for adjudication. Case was appealed and argued on 17 November 1988. The decision is pending.

DEPARTMENT OF THE AIR FORCE

Alamo Aircraft Supply, Inc., v. Weinberger, et. al., D.D.C., Civil Number 87-1167. Motion to dismiss 9 February 1988. Reconsideration dated 9 March 1988 and Appeal dismissed 29 June 1988.

Astreon Corp v. USAF, D.D.C. Civil Number 87-3408. Stipulated Dismissal dated 6 May 1988.

CC Distributors, Inc v. USAF, USDC SD, TX, Civil No. C-84-264, Settled - stipulation and order 5 August 1988.

Christensen, et. al. v. Estavilla, et. al., USDC, WD, WA, Civil No C-88-275-T. Voluntary dismissal dated 26 September 1988 and dismissal court dated 16 September 1988.

Goldstein, Paul v. Ofc. of the Independent Counsel, et. al., D.D.C., Civil No. 87-2028. Motion of Summary Judgment granted 28 July 1988.

Honeycomb Co. of Am v. USAF, D.D.C., Civil No. 87-1536. Plaintiff's Motion for Dismissal granted 26 October 1988.

Lawrence, Noah D. v. USAF, USDC, ED, VA, Civil No. 87-1153-A. Plaintiff's Motion to Dismiss granted 31 March 1988.

Lockheed v. SAF/Aldridge, USDC ND, CA, Civil No. 87-20820. Notice of Dismissal by Plaintiff 3 February 1988.

National Standards Assn. Inc. v. USAF, D.D.C. Civil No. 88-0172. Stipulation of Dismissal 15 April 1988.

Sherry A. Sullivan v. Department of Navy, Civil No. 87-0305-B (N.D. Me.). Plaintiff filed action on 25 September 1987, which seeks access to information maintained in Federal Bureau of Investigation, Central Intelligence Agency, Department of State, Department of the Treasury/U.S. Customs, U.S. Air Force, Immigration and Naturalization Service, Defense Intelligence Agency, U.S. Army Intelligence and Security Command and Naval Security and Investigative Command files, concerning the disappearance of her father, while piloting a plane to Central America. Navy files contained one pertinent document which mentioned plaintiff's father. A portion of this document was withheld which consisted of a name and service number for another person. The Navy was unable to contact the person for a release. A litigation report was provided to the Department of Justice on 2 November 1987. The Assistant U.S. Attorney assigned will attempt to delete the Navy from the action when the answer is filed. A second delay in responding was granted since so many agencies are involved.

Pototsky v. BGEN Cates, Department of Navy, Civil No. 87-0833, D.D.C. Plaintiff filed instant action on 13 November 1987, seeking access to an "investigation to inquire into the circumstances connected with allegations made by Captain Peter G. Pototsky against Major Roy N. Sifers regarding violations of the UCMJ which occurred during the month of September 1984". A motion to dismiss was filed on 3 December 1987, for lack of proper service of the parties. The plaintiff filed a memorandum in opposition on 18 December 1987. A draft answer to the complaint was provided to the U.S. Attorney, which claimed the documents are exempt from disclosure under (B) (5), (6) and (7). The DON's motion for summary judgment was granted on 10 June 1988.

Caryl A. Potter III, Esquire v. Department of Navy, C.A. No 88-1850, filed 6 July 1988. Plaintiff filed suit because NAVSEA failed to issue a timely response on 2 of 4 pending document requests. Court ordered a stay of proceedings.

Project on Military Procurement v. Department of Navy, D.D.C. No 88-2130, filed 1 August 1988. Plaintiff filed complaint for Injunctive Relief seeking production under the FOIA of NAVSEA records and a fee waiver or a reduction of fees. Defendant has filed motion for summary judgment. Plaintiff filed cross motion. A hearing is set for 17 February 1989.

Pan Am World Svcs., Inc. v. USA, D.D.C. Civil No. 88-0304-RDL. Plaintiff's Motion for Preliminary Injunction Denied 9 March 1988.

Reeves, Robert L., Jr. v. DOJ, CAC & USAF, USDC D, HI, Civil No. 78-0329. Dismissed 12 May 1988.

Tannehill, James II v. USAF, USDC CO, Civil No. 87-1395. Defendant's Motion to Dismiss granted 23 May 1988. Plaintiff's Motion for Reconsideration denied 17 June 1988.

Whitson, Joseph D. v. USA & USAF, USDC WD, TX, Civil No. SA-86-CA-1173. Defendant's Motion for Summary Judgment granted 25 February 1988.

DIA

Van Atta v. DIA, Civil Action 87-1508, 3 June 1987, D.D.C. Requester sought classified information pertaining to POW's. Summary judgment in favor of DIA, 6 July 1988.

Goldstein v. Office of Independent Counsel, et. al. Civil Action 87-2028, 20 July 1987, D.D.C. Requester sought electronic surveillances records on himself. Partial summary judgment in favor of DIA, 20 July 1988, as no records were located.

NSA/CSS

George Gregory Korkala v. National Security Agency/Central Security Service, Doc. No. 88-5001 (3d Cir). In January 1988, Korkala appealed the order from the New Jersey District Court which granted summary judgment. Plaintiff filed suit seeking communications between the U.N. Mission/Embassy of Uganda or Libya and various individuals. The Third Circuit Court of Appeals affirmed the District Court's order on 5 May 1988, dismissing the case.

Paul Goldstein v. Office of Independent Counsel, et al., Civil No. 87-2028, D.D.C. Plaintiff was seeking government documents from twelve federal agencies pertaining to the investigation and/or electronic surveillance of certain individuals, groups, and organizations. A Motion for Rehearing was filed on 9 July 1987, partial summary judgment was granted on 28 July 1988 which dismissed the case against NSA.

Wanda J. Johnson v. National Security Agency, Civil No. 86-2546, D.D.C. This suit was filed by a contractor employee for security polygraph tapes and charts. A Motion for Rehearing was filed on 9 July 1987, summary judgment affirmed 10 August 1988.

Maureen Frances Carney, et. al. v. CIA, et. al., Civil No. 88-00602, C.D.CA. On 4 February 1988, plaintiff filed suit seeking records on Father Carney and his activities in Nicaragua and Honduras. An ex parte, en camera declaration was filed on 4 January 1989.

ITEM 8
FOIA IMPLEMENTATION RULES OR REGULATIONS

AGENCY	DOCUMENT IDENTIFICATION	CFR.REF.
OSD/JS	DoD Regulation 5400.7-R "DoD Freedom of Information Act Program"	32 CFR 286, Vol 52, No. 132, pg 25976, 10 Jul 87
DEPT ARMY	AR 340-17	Pending Revision 32 CFR 518, 1 Jul 80
DEPT NAVY	SECNAVINST 5720.42D	32 CFR 701 Vol 53, No. 248, pg 52139, 27 Dec 88
DEPT AIR FORCE	AFR 12-30	Pending Revision 48 CFR, No. 69, 8 Apr 83
DCA	DCA Instruction 210-225-1	Pending Revision 32 CFR 287, 1 Jul 80

DCAA	DCAA Regulation 4510.5, 29 Aug 77, Change 1	Pending Revision 32 CFR 290, 1 Jul 80
	DCAA Instruction 4510.8, 27 Aug 81	Pending Revision 32 CFR 290, 1 Jul 80
DIA	DIA Regulation 12-39	32 CFR 292, Vol 53, No. 128, pg 25157, 5 Jul 88
DIS	DIS Regulation 01-12	32 CFR 298b, Vol 53, No. 185, pg 36968, 23 Sep 88
DLA	DLA Regulation 5400.14	32 CFR 1285, Vol 53, No. 143, pg 27962, 26 Jul 88; amended 3 Oct 88, pg 38716

DMA	DMA Instruction 5400.7	32 CFR 295, pg 7358, Vol 53, No. 45, pg 7358, 8 Mar 88; amended 16 Mar 88, pg 8629
DNA	DNA Instruction 5400.7B	32 CFR 291, Vol 53, No. 56, pg 9435, 23 Mar 88
NSA/CSS	NSA/CSS Regulation 10-9, 9 Feb 82	Pending Revision 32 CFR 299, 1 Jul 85

Item 9

FEE SCHEDULE AND FEES
COLLECTED

The fee schedule on pages 31 through 39, reprinted from Chapter 6, DOD Regulation 5400.7-R, June 1987, establishes standard costs collectible by Department of Defense Agencies.

\$1,144,998.01 was collected from the public for making records available during the year 1988 (see item 10(b), page 42 for agency totals).

**CHAPTER VI
FEE SCHEDULE
Section 1
GENERAL PROVISIONS**

6-100 Authorities

The Freedom of Information Act (5 U.S.C. 552), as amended; by the Freedom of Information Reform Act of 1986; the Paperwork Reduction Act (44 U.S.C. 35); the Privacy Act of 1974 (5 U.S.C. 552a); the Budget and Accounting Act of 1921 (31 U.S.C. 1 et. seq.); the Budget and Accounting Procedures Act (31 U.S.C. 67 et. seq.); the Defense Authorization Act for FY 87, Section 954, (P.L. 99-661), as amended by the Defense Technical Corrections Act of 1987 (P.L. 100-26).

6-101 Application

a. The fees described in this chapter apply to FOIA requests, and conform to the Office of Management and Budget Uniform Freedom of Information Act Fee Schedule and Guidelines. They reflect direct costs for search, review (in the case of commercial requesters), and duplication of documents, collection of which is permitted by the FOIA. They are neither intended to imply that fees must be charged in connection with providing information to the public in the routine course of business, nor are they meant as a substitute for any other schedule of fees, such as DoD Instruction 7230.7 [reference (r)], which does not supersede the collection of fees under the FOIA. Nothing in this chapter shall supersede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records" [5 U.S.C. 552 (a)(4)(A)(vi)] means any statute that enables a government agency such as the Government Printing Office (GPO) or the National Technical Information Service (NTIS), to set and collect fees. Components should ensure that when documents that would be responsive to a request are maintained for distribution by agencies operating statutory-based fee schedule programs such as the GPO or NTIS, they inform requesters of the steps necessary to obtain records from those sources.

b. The term "direct costs" means those expenditures a component actually makes in searching for, reviewing (in the case of commercial requesters), and duplicating documents to respond to an FOIA request. Direct costs include, for example, the salary of the employee performing the work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits), and the costs of operating duplicating machinery. These factors have been included in the fee rates prescribed at Section 2 of this Chapter. Not included in direct costs are overhead expenses such as costs of space, heating or lighting the facility in which the records are stored.

c. The term "search" includes all time spent looking for material that is responsive to a request. Search also includes a page-by-page or line-by-line identification (if necessary) of material in the document to determine if it, or portions thereof are responsive to the request. Components should ensure that searches are done in the most efficient and least expensive manner so as to minimize costs for both the Component and the requester. For example, Components should not engage in line-by-line searches when duplicating an entire document known to contain responsive information would prove to be the less expensive and quicker method of complying with the request. Time spent reviewing documents in order to determine whether to apply one or more of the statutory exemptions is not search time, but review time. See paragraph 6-101 e. for the definition of review, and paragraph 6-201 b. for information pertaining to computer searches.

d. The term "duplication" refers to the process of making a copy of a document in response to an FOIA request. Such copies can take the form of paper copy, microfiche, audiovisual, or machine readable documentation (e.g., magnetic tape or disc), among others. Every effort will be made to insure that the copy provided is in a form that is reasonably useable by requesters. If it is not possible to provide copies which are clearly useable, the requester will be notified that their copy is the best available and that the agency's master copy will be made available for review upon appointment. For duplication of computer tapes and audiovisual, the actual cost, including the operator's time, shall be charged. In practice, if a component estimates that assessable duplication charges are likely to exceed \$25.00, it shall notify the requester of the estimate, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. Such a notice shall offer a requester the opportunity to confer with Component personnel with the object of reformulating the request to meet his or her needs at a lower cost.

e. The term "review" refers to the process of examining documents located in response to an FOIA request to determine whether one or more of the statutory exemptions permit withholding. It also includes processing the documents for disclosure, such as excising them for release. Review does not include the time spent resolving general legal or policy issues regarding the application of exemptions. It should be noted that charges for commercial requesters may be assessed only for the

initial review. Components may not charge for reviews required at the administrative appeal level of an exemption already applied. However, records or portions of records withheld in full under an exemption which is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs for such a subsequent review would be properly assessable.

6-102 Fee Restrictions

a. No fees may be charged by any DoD component if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee. With the exception of requesters seeking documents for a commercial use, Components shall provide the first two hours of search time, and the first one hundred pages of duplication without charge. For example, for a request (other than one from a commercial requester) that involved two hours and ten minutes of search time, and resulted in one hundred and five pages of documents, a Component would determine the cost of only ten minutes of search time, and only five pages of reproduction. If this processing cost was equal to, or less than the cost to the Component for billing the requester and processing the fee collected, no charges would result.

b. Requesters receiving the first two hours of search and the first one hundred pages of duplication without charge are entitled to such only once per request. Consequently, if a Component, after completing its portion of a request, finds it necessary to refer the request to a subordinate office, another DoD Component, or another federal agency to action their portion of the request, the referring Component shall inform the recipient of the referral of the expended amount of search time and duplication cost to date.

c. The elements to be considered in determining the "cost of collecting a fee" are the administrative costs to the Component of receiving and recording a remittance, and processing the fee for deposit in the Treasury Department's special account. The cost to the Treasury to handle such remittance is negligible and shall not be considered in Components' determinations.

d. For the purposes of these restrictions, the word "pages" refers to paper copies of a standard size, which will normally be "8½ x 11" or "11 x 14". Thus, requesters would not be entitled to 100 microfiche or 100 computer disks, for example. A microfiche containing the equivalent of 100 pages or 100 pages of computer printout; however, might meet the terms of the restriction.

e. In the case of computer searches, the first two free hours will be determined against the salary scale of the individual operating the computer for the purposes of the search. As an example, when the direct costs of the computer central processing unit, input-output devices, and memory capacity equal \$24.00 (two hours of equivalent search at the clerical level), amounts of computer costs in excess of that amount are chargeable as computer search time.

6-103 Fee Waivers

a. Documents shall be furnished without charge, or at a charge reduced below fees assessed to the categories of requesters in paragraph 6-104 when the Component determines that waiver or reduction of the fees is in the public interest because furnishing the information is likely to contribute significantly to public understanding of the operations or activities of the Department of Defense and is not primarily in the commercial interest of the requester.

b. When direct costs for the FOIA request total \$15.00 or less, fees shall be waived automatically for all requesters, regardless of category.

c. Decisions to waive or reduce fees that exceed the automatic waiver threshold shall be made on a case-by-case basis, consistent with the following factors:

1. Disclosure of the information "is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government."

(i) **The subject of the request.** Components should analyze whether the subject matter of the request involves issues which will significantly contribute to the public understanding of the operations or activities of the DoD. Requests for records in the possession of DoD which were originated by non-government organizations and are sought for their intrinsic content, rather than informative value will likely not contribute to public understanding of the operations or activities of the DoD. An example of such records might be press clippings, magazine articles, or records forwarding a particular opinion of concern from a member of the public regarding a DoD activity. Similarly, disclosures of records of considerable age may or may not bear directly on the current activities of the DoD; however, the age of a particular record shall not be the sole criteria for

denying relative significance under this factor. It is possible to envisage an informative issue concerning the current activities of the DoD, based upon historical documentation. Requests of this nature must be closely reviewed consistent with the requester's stated purpose for desiring the records and the potential for public understanding of the operations and activities of the DoD.

(ii) The informative value of the information to be disclosed. This factor requires a close analysis of the substantive contents of a record, or portion of the record, to determine whether disclosure is meaningful, and will inform the public on the operations or activities of the DoD. While the subject of a request may contain information which concerns operations or activities of the DoD, it may not always hold great potential for contributing to a meaningful understanding of these operations or activities. An example of such would be a heavily redacted record, the balance of which may contain only random words, fragmented sentences, or paragraph headings. A determination as to whether a record in this situation will contribute to the public understanding of the operations or activities of the DoD must be approached with caution, and carefully weighed against the arguments offered by the requester. Another example is information already known to be in the public domain. Disclosure of duplicative, or nearly identical information already existing in the public domain may add no meaningful new information concerning the operations and activities of the DoD.

(iii) The contribution to an understanding of the subject by the general public likely to result from disclosure. The key element in determining the applicability of this factor is whether disclosure will inform, or have the potential to inform the public, rather than simply the individual requester or small segment of interested persons. The identity of the requester is essential in this situation in order to determine whether such requester has the capability and intention to disseminate the information to the public. Mere assertions of plans to author a book, researching a particular subject, doing doctoral dissertation work, or indigency are insufficient without demonstrating the capacity to further disclose the information in a manner which will be informative to the general public. Requesters should be asked to describe their qualifications, the nature of their research, the purpose of the requested information, and their intended means of dissemination to the public.

(iv) The significance of the contribution to public understanding. In applying this factor, components must differentiate the relative significance or impact of the disclosure on a current subject of wide public interest be unique in contributing previously unknown facts, thereby enhancing public knowledge, or will it basically duplicate what is already known by the general public. A decision regarding significance requires objective judgment, rather than subjective determination, and must be applied carefully to determine whether disclosure will likely lead to a significant public understanding of the issue. Components shall not make value judgments as to whether the information is important enough to be made public.

2. Disclosure of the information "is not primarily in the commercial interest of the requester."

(i) The existence and magnitude of a commercial interest. If the request is determined to be of a commercial interest, Components should address the magnitude of that interest to determine if the requester's commercial interest is primary, as opposed to any secondary personal or non-commercial interest. In addition to profit-making organizations, individual persons or other organizations may have a commercial interest in obtaining certain records. Where it is difficult to determine whether the requester is of a commercial nature, Components may draw inference from the requester's identity and circumstances of the request. In such situations, the provisions of paragraph 6-104 apply. Components are reminded that in order to apply the commercial standards of the FOIA, the requester's commercial benefit must clearly override any personal or non-profit interest.

(ii) The primary interest in disclosure. Once a requester's commercial interest has been determined, Components should then determine if the disclosure would be primarily in that interest. This requires a balancing test between the commercial interest of the request against any public benefit to be derived as a result of that disclosure. Where the public interest is served above and beyond that of the requester's commercial interest, a waiver or reduction of fees would be appropriate. Conversely, even if a significant public interest exists, and the relative commercial interest of the requester is determined to be greater than the public interest, then a waiver or reduction of fees would be inappropriate. As examples, news media organizations have a commercial interest as business organizations; however, their inherent role of disseminating news to the general public can ordinarily be presumed to be of a primary interest. Therefore, any commercial interest becomes secondary to the primary interest in serving the public. Similarly, scholars writing books or engaged in other forms of academic research, may recognize a commercial benefit, either directly, or indirectly (through the institution they represent); however, normally such pursuits are primarily undertaken for educational purposes, and the application of a

fee charge would be inappropriate. Conversely, data brokers or others who merely compile government information for marketing can normally be presumed to have an interest primarily of a commercial nature.

d. Components are reminded that the above factors and examples are not all inclusive. Each fee decision must be considered on a case-by-case basis and upon the merits of the information provided in each request. When the element of doubt as to whether to charge or waive the fee cannot be clearly resolved, Components should rule in favor of the requester.

e. In addition, the following additional circumstances describe situations where waiver or reduction of fees are most likely to be warranted:

1. A record is voluntarily created to preclude an otherwise burdensome effort to provide voluminous amounts of available records, including additional information not requested.

2. A previous denial of records is reversed in total, or in part, and the assessable costs are not substantial (e.g. \$15.00-\$30.00).

6-104 Fee Assessment

a. Fees may not be used to discourage requesters, and to this end, FOIA fees are limited to standard charges for direct document search, review (in the case of commercial requesters) and duplication.

b. In order to be as responsive as possible to FOIA requests while minimizing unwarranted costs to the taxpayer, Components shall adhere to the following procedures:

1. Analyze each request to determine the category of the requester. If the Component determination regarding the category of the requester is different than that claimed by the requester, the component will:

(I) Notify the requester that he should provide additional justification to warrant the category claimed, and that a search for responsive records will not be initiated until agreement has been attained relative to the category of the requester, and within a reasonable period of time (i.e., 30 calendar days), the Component shall render a final category determination, and notify the requester of such determination, to include normal administrative appeal rights of the determination.

(II) Advise the requester that, notwithstanding any appeal, a search for responsive records will not be initiated until the requester indicates a willingness to pay assessable costs appropriate for the category determined by the Component.

2. Requesters must submit a fee declaration appropriate for the below categories.

(I) Commercial. Requesters must indicate a willingness to pay all search, review and duplication costs.

(II) Educational or Noncommercial Scientific Institution or News Media. Requesters must indicate a willingness to pay duplication charges in excess of 100 pages if more than 100 pages of records are desired.

(III) All Others. Requesters must indicate a willingness to pay assessable search and duplication costs if more than two hours of search effort or 100 pages of records are desired.

3. If the above conditions are not met, then the request need not be processed and the requester shall be so informed.

4. In the situations described by b. 1. and 2. above, Components must be prepared to provide an estimate of assessable fees if desired by the requester. While it is recognized that search situations will vary among Components, and that an estimate is often difficult to obtain prior to an actual search, requesters who desire estimates are entitled to such before committing to a willingness to pay. Should Component estimates exceed the actual amount of the estimate or the amount agreed to by the requester, the amount in excess of the estimate or the requester's agreed amount shall not be charged without the requester's agreement.

5. No DoD Component may require advance payment of any fee, i.e., payment before work is commenced or continued on a request, unless the requester has previously failed to pay fees in a timely fashion, or the agency has determined that the fee will exceed \$250.00. As used in this sense, a timely fashion is 30 calendar days from the date of billing (the fees have been assessed in writing) by the Component.

6. Where a Component estimates or determines that allowable charges that a requester may be required to pay are likely to exceed \$250.00, the Component shall notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payments, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment.

7. Where a requester has previously failed to pay a fee charged in a timely fashion (i.e., within 30 calendar days from the date of the billing), the Component may require the requester to pay the full amount owed, plus any applicable interest, or demonstrate that he has paid the fee, and to make an advance payment of the full amount of the estimated fee before the Component begins to process a new or pending request from the requester. Interest will be at the rate prescribed in Section 3717 of Title 31, U.S.C.A., and confirmed with respective Finance and Accounting Offices.

8. After all work is completed on a request, and the documents are ready for release, Components may request payment prior to forwarding the documents if there is no payment history on the requester, or if the requester has previously failed to pay a fee in a timely fashion (i.e., within 30 calendar days from the date of the billing). In the case of the latter, the provisions of b.7., above apply. Components may not hold documents ready for release pending payment from requesters with a history of prompt payment.

9. When Components act under subparagraphs 1-7 above, the administrative time limits of the FOIA (i.e., 10 working days from receipt of initial requests, and 20 working days from receipt of appeals, plus permissible extensions of these time limits) will begin only after the Component has received a willingness to pay fees and satisfaction as to category determination, or fee payments (if appropriate).

10. Components may charge for time spent searching for records, even if that search fails to locate records responsive to the request, or if records located are determined to be exempt from disclosure. In practice, if the Component estimates that search charges are likely to exceed \$25.00 it shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. Such a notice shall offer the requester the opportunity to confer with Component personnel with the object of reformulating the request to meet his or her needs at a lower cost.

c. Commercial Requesters. Fees shall be limited to reasonable standard charges for document search, review and duplication when records are requested for commercial use. Requester must reasonably describe the records sought (see paragraph 1-507).

1. The term "commercial use" request" refers to a request from, or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interest of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, Components must determine the use to which a requester will put the documents requested. Moreover, where a Component has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, Components should seek additional clarification before assigning the request to a specific category.

2. When Components receive a request for documents for commercial use, they should assess charges which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Commercial requesters (unlike other requesters) are not entitled to two hours of free search time, nor 100 free pages of reproduction of documents. Moreover, commercial requesters are not normally entitled to a waiver or reduction of fees based upon an assertion that disclosure would be in the public interest. However, because use is the exclusive determining criteria, it is possible to envision a commercial enterprise making a request that is not for commercial use. It is also possible that a non-profit organization could make a request that is for commercial use. Such situations must be addressed on a case-by-case basis.

d. Educational Institution Requesters. Fees shall be limited to only reasonable standard charges for document duplication (excluding charges for the first 100 pages) when the request is made by an educational institution whose purpose is scholarly research. Requesters must reasonably describe the records sought (see paragraph 1-507). The term "educational institution" refers to a pre-school, a public or private elementary or secondary school, an institution of graduate higher

education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

e. Non-Commercial Scientific Institution Requesters. Fees shall be limited to only reasonable standard charges for document duplication (excluding charges for the first 100 pages) when the request is made by a non-commercial scientific institution whose purpose is scientific research. Requesters must reasonably describe the records sought (see paragraph 1-507). The term "non-commercial scientific institution" refers to an institution that is not operated on a "commercial" basis as defined in subparagraph c., above, and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

f. Components shall provide documents to requesters in subparagraphs d. and e., above for the cost of duplication alone, excluding charges for the first 100 pages. To be eligible for inclusion in these categories, requesters must show that the request is being made under the auspices of a qualifying institution and that the records are not sought for commercial use, but in furtherance of scholarly (from an educational institution) or scientific (from a non-commercial scientific institution) research.

g. Representatives of the news media. Fees shall be limited to only reasonable standard charges for document duplication (excluding charges for the first 100 pages) when the request is made by a representative of the news media. Requesters must reasonably describe the records sought (see paragraph 1-507).

1. The term "representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. These examples are not meant to be all-inclusive. Moreover, as traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of "freelance" journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but components may also look to the past publications record of a requester in making this determination.

2. To be eligible for inclusion in this category, a requester must meet the criteria in subparagraph 1., above, and his or her request must not be made for commercial use. A request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for a commercial use. For example, a document request by a newspaper for records relating to the investigation of a defendant in a current criminal trial of public interest could be presumed to be a request from an entity eligible for inclusion in this category, and entitled to records at the cost of reproduction alone (excluding charges for the first 100 pages).

f. All Other Requesters. Components shall charge requesters who do not fit into any of the above categories, fees which recover the full direct cost of searching for and duplicating records, except that the first two hours of search time and the first 100 pages of duplication shall be furnished without charge. Requesters must reasonably describe the records sought (see paragraph 1-507). Requests from subjects about themselves will continue to be treated under the fee provisions of the Privacy Act of 1974, which permit fees only for duplication. Components are reminded that this category of requester, as well as the aforementioned categories of requesters may be eligible for a waiver or reduction of fees if such is in the public interest as defined under paragraph 6-103 a. (See also paragraph 6-104 c.2.).

6-105 Aggregating Requests.

Except for requests that are for a commercial use, a Component may not charge for the first two hours of search time or for the first 100 pages of reproduction. However, a requester may not file multiple requests at the same time, each seeking portions of a document or documents, solely in order to avoid payment of fees. When a Component reasonably believes that a requester or, on rare occasions, a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the agency may aggregate any such requests and charge accordingly. One element to be considered in determining whether a belief would be reasonable is the time period in which the requests have occurred. For example, it

would be reasonable to presume that multiple requests of this type made within a 30 day period had been made to avoid fees. For requests made over a longer period; however, such a presumption becomes harder to sustain and Components should have a solid basis for determining that aggregation is warranted in such cases. Components are cautioned that before aggregating requests from more than one requester, they must have a concrete basis on which to conclude that the requesters are acting in concert and are acting specifically to avoid payment of fees. In no case may Components aggregate multiple requests on unrelated subjects from one requester.

6-106 Effect of the Debt Collection Act of 1982 (P.L. 97-365).

The Debt Collection Act of 1982 (P.L. 97-365) provides for a minimum annual rate of interest to be charged on overdue debts owed the Federal Government. Components may levy this interest penalty for any fees that remain outstanding 30 calendar days from the date of billing (the first demand notice) to the requester of the amount owed. The interest rate shall be as prescribed in Section 3717 of Title 31 U.S.C.A. Components should verify the current interest rate with respective Finance and Accounting Offices. After one demand letter has been sent, and 30 calendar days have lapsed with no payment, Components may submit the debt to respective Finance and Accounting Offices for collection pursuant to the Debt Collection Act of 1982.

6-107 Computation of Fees

The fee schedule in this chapter shall be used to compute the search, review (in the case of commercial requesters) and duplication costs associated with processing a given FOIA request. Costs shall be computed on time actually spent. Neither time-based nor dollar-based minimum charges for search, review and duplication are authorized.

Section 2

COLLECTION OF FEES AND FEE RATES

6-200 Collection of Fees

Collection of fees will be made at the time of providing the documents to the requester or recipient when the requester specifically states that the costs involved shall be acceptable or acceptable up to specified limit that covers the anticipated costs. Collection of fees may not be made in advance unless the requester has failed to pay previously assessed fees within 30 calendar days from the date of the billing by the DoD Component, or the Component has determined that the fee will be in excess of \$250 (see paragraph 6-104).

6-201 Search Time

a. Manual Search

<u>Type</u>	<u>Grade</u>	<u>Hourly Rate(\$)</u>
Clerical	E9/GS8 and below	12
Professional	01-06/GS9-GS/GM15	25
Executive	07/GS/GM16/ES1 and above	45

b. Computer Search

Computer search is based on direct cost of the central processing unit, input-output devices, and memory capacity of the actual computer configuration. The salary scale (equating to paragraph a. above) for the computer operator/programmer determining how to conduct and subsequently executing the search will be recorded as part of the computer search.

6-202 Duplication

<u>Type</u>	<u>Cost per Page (¢)</u>
Pre-Printed material	02
Office copy	15
Microfiche	25
Computer copies (tapes or printouts)	Actual cost of duplicating the tape or printout (includes operator's time and cost of the tape)

6-203 Review Time (In the case of commercial requesters)

<u>Type</u>	<u>Grade</u>	<u>Hourly Rate(\$)</u>
Clerical	E9/GS8 and below	12
Professional	01-06/GS9-GS15	25
Executive	07/GS16/ES1 and above	45

6-204 Audiovisual Documentary Materials

Search costs are computed as for any other record. Duplication cost is the actual direct cost of reproducing the material, including the wage of the person doing the work. Audiovisual materials provided to a requester need not be in reproducible format or quality.

6-205 Other Records

Direct search and duplication cost for any record not described above shall be computed in the manner described for audiovisual documentary material.

6-206 Costs for Special Services

Complying with requests for special services is at the discretion of the Components. Neither the FOIA, nor its fee structure cover these kinds of services. Components may, therefore, recover the costs of special services requested by the requester after agreement has been obtained in writing from the requester to pay for one or more of the following services:

- a. Certifying that records are true copies.
- b. Sending records by special methods such as express mail, etc.

Section 3

COLLECTION OF FEES AND FEE RATES FOR TECHNICAL DATA

6-300 Fees for Technical Data

a. Technical data, other than technical data that discloses critical technology with military or space application, if required to be released under the FOIA, shall be released after the person requesting such technical data pays all reasonable costs attributed to search, duplication and review of the records to be released. Technical data, as used in this Section, means recorded information, regardless of the form or method of the recording of a scientific or technical nature (including computer software documentation). This term does not include computer software, or data incidental to contract administration such as financial and/or management information. Department of Defense Components shall retain the amounts received by such a release, and it shall be merged with and available for the same purpose and the same time period as the appropriation from which the costs were incurred in complying with request. All reasonable costs as used in this sense are the full costs to the Federal Government of rendering the service, or fair market value of the service, whichever is higher. Fair market value shall be determined in accordance with commercial rates in the local geographical area. In the absence of a known market value, charges shall be based on recovery of full costs to the Federal Government. The full cost shall include all direct and indirect costs to conduct the search and to duplicate the records responsive to the request. This cost is to be differentiated from the direct costs allowable under Section 2 for other types of information released under the FOIA.

b. Waiver. Components shall waive the payment of costs required in paragraph a. above, which are greater than the costs that would be required for release of this same information under Section 2 of this Chapter if:

1. The request is made by a citizen of the United States or a United States corporation, and such citizen or corporation certifies that the technical data requested is required to enable it to submit an offer, or determine whether it is capable of submitting an offer to provide the product to which the technical data relates to the United States or a contractor with the United States. However, Components may require the citizen or corporation to pay a deposit in an amount equal to not more than the cost of complying with the request, which will be refunded upon submission of an offer by the citizen or corporation;

2. The release of technical data is requested in order to comply with the terms of an international agreement; or,

3. The Component determines in accordance with paragraph 6-103 a. that such a waiver is in the interest of the United States.

c. Fee Rates.

1. Search Time

(i) Manual Search

<u>Type</u>	<u>Grade</u>	<u>Hourly Rate(\$)</u>
Clerical	E9/GS8 and below	13.25
(Minimum Charge)		8.30

Professional (To be established at actual hourly rate prior to search. A minimum charge will be established at 1/2 hourly rates)

(ii) Computer search is based on the total cost of the central processing unit, input-output devices, and memory capacity of the actual computer configuration. The wage (based upon the scale in (i), above) for the computer operator/programmer determining how to conduct, and subsequently executing the search will be recorded as part of the computer search.

2. Duplication

<u>Type</u>	<u>Cost</u>
Aerial Photographs, Specifications, Permits, Charts, Blueprints, and other technical documents	\$2.50
Engineering data (microfilm)	
a. Aperture cards	
(i) Silver duplicate negative, per card	.75
When key punched and verified, per card	.85
(ii) Diazo duplicate negative, per card	.65
When key punched and verified, per card	.75
b. 35mm roll film, per frame	.50
c. 16mm roll film, per frame	.45
d. Paper prints (engineering drawings), each	1.50
e. Paper reprints of microfilm indices, each	.10

3. Review Time

<u>Type</u>	<u>Grade</u>	<u>Hourly Rate(\$)</u>
Clerical	E9/GS8 and below	13.25
(Minimum Charge)		8.30

Professional (To be established at actual hourly rate prior to review. A minimum charge will be established at 1/2 hourly rates)

d. Other Technical Data Records

Charges for any additional services not specifically provided above, consistent with reference (r), shall be made by Components at the following rates:

1. Minimum charge for office copy (up to six images)	\$3.50
2. Each addition image10
3. Each typewritten page	3.50
4. Certification and validation with seal, each	5.20
5. Hand-drawn plots and sketches, each hour or fraction thereof	12.00

ITEM 10(a)

AVAILABILITY OF RECORDS

(New Categories or segregable portions of records now being released).

NONE

Item 10(b)*
Calendar Year Costs and Fees Collected

Reporting Activity	Annual Cost	Fees Collected
OSD/JS	\$879,944.77	\$12,503.47
DEPT ARMY	4,287,086.65	189,954.63
DEPT NAVY	4,340,320.08	411,927.48
DEPT AIR FORCE	4,551,087.00	246,028.00
DCA	8,437.88	143.95
DCAA	107638	16,296.00
DIA	293,244.00	1,195.00
DIS	44,528.32	160.75
DLA	1,189,176.82	256,625.05
DMA	22,800.89	3,588.68
DNA	92,982.17	3,666.00
NSA/CSS	341,562.00	2,909.00
DoD Totals	\$16,158,808.58	\$1,144,998.01

*Based on reporting procedures established March 16, 1977, to capture a "best estimate" cost of administrating FOIA as amended. The cost outline on the following page provides a breakdown by DoD reporting agencies.

CALENDAR YEAR COSTS AND FEES COLLECTED BY DoD REPORTING AGENCIES

COST OUTLINE	OSD/JS	DEPT ARMY	DEPT NAVY	DEPT AF
I. Personnel Costs				
A. Estimated Manyears*	16.32	171.19	86.39	104.47
B. Manyear Costs (Grades Considered)	\$544,219.96	\$2,589,538.46	\$2,495,706.17	\$2,356,724.00
C. Estimated Manhour Costs by Category (Fee Schedule Rates)**				
(1) Search Time	21,029.13	1,888,818.46	352,263.17	171,056.00
(2) Review & Excising	30,302.76	106,055.31	100,339.93	239,773.00
(3) Coordination & Approval	14574.35	90,652.98	78,147.53	212,214.00
(4) Correspondence/Form Preparation	5,604.26	77,012.43	75,096.56	131,289.00
(5) Other Activities	7,164.40	26,641.66	46,606.35	75,536.00
MANHOUR COST TOTAL				
D. Total C. (1) thru C. (5)	78,674.90	489,180.84	652,453.54	829,868.00
E. Overhead (Computed at 25%)	155,723.72	769,679.83	787,039.93	954,148.00
F. Total Personnel Costs	778,618.58	3,848,399.13	3,935,199.64	4,140,740.00
II. Other Case-Related Costs				
A. Computer Search Time	56,242.14	61,788.92	1,572.00	33,056.00
B. Reproduction	11,757.87	186,339.95	74,499.25	170,545.00
C. Microfiche Reproduction	343.48	2,219.94	124,970.75	16,625.00
D. Printed Records	114.18	4,997.49	4,982.72	8,036.00
E. Total of Other Case-Related Costs	68,457.59	255,346.30	206,024.72	228,262.00
III. Reporting/Other Costs				
A. Reporting Costs				
(1) Operational	1,214.75	30,366.00	14,927.73	24,439.00
(2) User	3,287.00	1,916.35	5,685.18	0.00
(3) Overhead (Computed at 25%)	1,125.44	8,070.59	5,139.23	6,110.00
B. Other Operating Costs (Voluntary Reporting of items such as postage travel, computer, etc.)	2,241.42	2,864.74	6,726.67	129,429.00
C. Total Reporting/Other Costs	7,868.61	10,935.33	32,478.81	159,978.00
IV. Summary				
A. Total Costs, Sections I thru III	\$879,944.77	\$4,287,086.65	\$4,340,320.08	\$4,551,087.00
B. Amount Collected from the Public	12,503.47	189,954.63	411,927.48	246,028.00

*Personnel assigned full-time or part-time FOI duties.

**Personnel other than IB.

Note: Figures may not add due to rounding

CALENDAR YEAR COSTS AND FEES COLLECTED BY DOD REPORTING AGENCIES
(Cont'd)

COST OUTLINE	DCA	DCAA	DIA	DIS
I. Personnel Costs				
A. Estimated Manyears*	0.00	3.60	4.50	1.25
B. Manyear Costs (Grades Considered)	\$0.00	\$90,183.00	\$162,911.00	\$26,600.00
C. Estimated Manhour Costs by Category (Fee Schedule Rates)**				
(1) Search Time	1,091.00	5,867.00	11,816.00	2,168.00
(2) Review & Excising	2,939.65	8,097.00	21,614.00	0.00
(3) Coordination & Approval	0.00	0.00	8,569.00	0.00
(4) Correspondence/Form Preparation	780.00	0.00	5,039.00	181.25
(5) Other Activities	166.00	0.00	1,041.00	535.50
MANHOUR COST TOTAL				
D. Total C. (1) thru C. (5)	2,450.00	13,964.00	48,079.00	2,884.75
E. Overhead (Computed at 25%)	602.50	3,491.00	52,747.00	7,371.18
F. Total Personnel Costs	3,052.50	107,638.00	263,737.00	38,954.90
II. Other Case-Related Costs				
A. Computer Search Time	60.00	0.00	19,140.00	392.70
B. Reproduction	5,325.38	5,358.00	7,080.00	35.00
C. Microfiche Reproduction	0.00	0.00	61.00	0.00
D. Printed Records	0.00	0.00	257.00	160.75
E. Total of Other Case-Related Costs	6,385.38	5,358.00	26,538.00	588.45
III. Reporting/Other Costs				
A. Reporting Costs				
(1) Operational	0.00	0.00	2,375.00	0.00
(2) User	0.00	0.00	0.00	0.00
(3) Overhead (Computed at 25%)	0.00	0.00	594.00	0.00
B. Other Operating Costs (Voluntary Reporting of items such as postage, travel, computer, etc.)				
C. Total Reporting/Other Costs	0.00	0.00	2,969.00	0.00
IV. Summary				
A. Total Costs, Sections I thru III	\$8,437.88	\$112,996.00	\$293,244.00	\$44,528.32
B. Amount Collected from the Public	143.95	16,296.00	1,195.00	160.75

*Personnel assigned full-time or part-time FOI duties.
**Personnel other than IB.

Note: Figures may not add due to rounding

CALENDAR YEAR COSTS AND FEES COLLECTED BY DoD REPORTING AGENCIES
(Cont'd)

COST OUTLINE	DLA	DMA	DNA	NSA/CSS
I. Personnel Costs				
A. Estimated Manyears*	20.24	0.20	1.00	5.20
B. Manyear Costs (Grades Considered)	\$484,319.41	\$9,100.00	\$37,000.00	\$199,950.00
C. Estimated Manhour Costs by Category (Fee Schedule Rates)**				
(1) Search Time	107,198.61	2,006.00	2,741.44	28,847.00
(2) Review & Excising	86,316.33	2,004.00	21,766.50	32,474.00
(3) Coordination & Approval	14,013.60	1,214.75	5,561.95	0.00
(4) Correspondence/Form Preparation	20,108.49	708.25	1,131.80	2,976.00
(5) Other Activities	32,615.79	1,546.41	4,302.38	0.00
MANHOURLY COST TOTAL				
D. Total C. (1) thru C. (5)	260,252.82	7,479.41	72,504.07	64,297.00
E. Overhead (Computed at 25%)	186,143.05	4,144.85	18,126.02	66,062.00
F. Total Personnel Costs	930,715.28	20,724.26	90,630.09	330,309.00
II. Other Case-Related Costs				
A. Computer Search Time	121,869.25	36.25	193.00	3,450.00
B. Reproduction	77,737.06	661.30	2,159.08	7,803.00
C. Microfiche Reproduction	48,114.31	0.00	0.00	0.00
D. Printed Records	2,185.55	23.66	0.00	0.00
E. Total of Other Case-Related Costs	49,907.17	721.21	2,352.08	11,253.00
III. Reporting/Other Costs				
A. Reporting Costs				
(1) Operational	3,269.17	396.34	0.00	0.00
(2) User	1,986.96	75.00	0.00	0.00
(3) Overhead (Computed at 25%)	1,314.03	589.17	0.00	0.00
B. Other Operating Costs (Voluntary Reporting of items such as postage, travel, computer, etc.)	6,570.16	766.52	0.00	0.00
C. Total Reporting/Other Costs	100.00	1,355.42	0.00	0.00
IV. Summary				
A. Total Costs, Sections I thru III	\$1,189,176.82	\$22,800.89	\$92,982.17	\$341,562.00
B. Amount Collected from the Public	256,625.05	3,588.68	3,666.00	2,909.00

*Personnel assigned full-time or part-time FOI duties.
**Personnel other than IB.

Note: Figures may not add due to rounding

Item 10(c)
Time Limit Extensions by Agency

Reporting Activity	I		II & III		Totals
	Unusual Circumstances		Court		
	Location	Volume	Consultation	Involvement	
OSD/JS	15	109	1,226	5	1,355
DEPT ARMY	30	56	135	11	232
DEPT NAVY	44	836	100	18	998
DEPT AF	41	700	258	13	1,012
DCA	0	28	0	0	28
DCAA	6	11	13	0	30
DIA	87	188	89	2	366
DIS	4	1	0	0	5
DLA	116	194	308	2	620
DMA	0	2	6	0	8
DNA	0	0	31	0	31
NSA/CSS	0	450	8	0	458
DoD Totals	343	2,575	2,174	51	5,143

ITEM 10(d) Optional

Other Information (Opinions) or Recommendations
on Administering FOIA

Of the 1,977 requests completed in the Office of the Secretary of Defense, the following table categorizes the requesters by percentage of the total case load:

<u>CATEGORY</u>	<u>PERCENTAGE</u>
Business Firms	15
Congress	1
Foreign	1
Individual	37
Law Firms	18
News Media	2
Research	2
Special Interest	21
Students	1
Other	2
	<hr/>
	100

Item 11
FOIA INSTRUCTIONAL AND EDUCATIONAL EFFORTS

DoD

The lack of funds for a Department-wide training/educational program continues as a major concern and hampers the overall effectiveness and management of the DoD FOIA Program. The programmed rotation of personnel demand constant training/educational efforts. Components are directed, within their available resources, to conduct their own training/educational training programs. The educational programs are to be targeted toward all members of the Component, whereas the training programs are to be focused toward those personnel who are involved in the day-to-day processing of FOI requests. The overall training/educational objective, when considering the limitation of funds, is adequate and the Components' efforts are essential in maintaining the level of expertise to efficiently administer the Defense program.

OSD/JS

Newly assigned personnel in the FOIA Program, Director's Office routinely attend FOIA conferences and training sessions sponsored by OPM and other organizations. Briefings, orientations, and staff visits between components encourage the participation of FOI personnel to attend FOIA conferences, symposia and seminars presented by Federal and Private Organizations. During April 1988, the Directorate for Freedom of Information and Security Review, OASD(Public Affairs) conducted two, four-hour training sessions on FOIA statutory provisions and request processing requirements for all OSD/JS Components. The Directorate also travelled to Headquarters, European Command and conducted a two-day FOIA class to staff personnel during October 1988.

DEPT ARMY

The Department of the Army FOIA coordinators inform Army personnel of the provisions of the Act on a continual basis. FOIA points of contact are available throughout the Army at all times to answer questions, provide guidance and resolve problems concerning the Act. Personnel responsible for administering the FOIA Program attend FOIA seminars and workshops throughout the year. The FOIA training sessions were attended by Army FOIA personnel as follows: Department of Justice 10th Annual Symposium on FOIA, 16 hours; 16-17 August 1988, Department of Justice FOI Seminar, 8 hours; September 1988, Department of Justice Department of Justice FOIA for Attorney and Access Professionals, 7-8 June, 12 hours; Department of Justice Introduction to the FOIA for Nonspecialists, 21 June 1988, 8 hours; Department of Justice advanced FOIA Seminar, 21 December 1988, 8 hours;

department of Justice FOIA Annual Update Seminar, 11-12 October 1988, 16 hours; Department of Justice FOIA for Attorneys and Access, 24-25 October 1988, 16 hours and Department of Justice Advanced FOIA Seminar, 21 December 1988, 8 hours.

DEPT NAVY

Naval activities in the Washington, DC area report attendance at FOIA training seminars sponsored by the DoD, Chief of Naval Operations, American Society for Access Professionals, Office of Personnel Management, Department of Justice and the U.S. Department of Agriculture Graduate School. Many naval activities are including PA/FOIA training for new employees in indoctrination classes and through supervisor training classes.

DEPT AIR FORCE

Air Training Command developed "Guidelines for Processing FOIA Requests," which is a compilation of samples for all facets of processing requests. Air Reserve Personnel Center published an information management guide pamphlet which includes a chapter providing FOIA guidance. Personnel attended various FOIA training seminars and conferences throughout the year sponsored by the Department of Justice, GSA, and the Office of Personnel Management. Records managers conducted workshops and provided training throughout their major commands and subordinate units, to FOIA managers and functional area records managers. Air Force distributed copies of 1988 Department of Justice Case List to all 34 Air Force FOIA managers for their reference and use in training.

DCA

Advanced Freedom of Information Seminar (DECCO FOIA Coordinator) sponsored by Department of Justice, 21 December 1988.

DCAA

FOIA Training sponsored by Central Region, 30 and 31 January 1988.

DIA

FOIA Update and Review Training sponsored by RTS-1B (8 separate sessions).

DIS

FOIA Briefings sponsored by Office of the Secretary of Defense and Federal Bureau of Investigation. Basic Agent Course sponsored by DOD Special Investigations and FOI/PA Personnel Training Course sponsored by Defense Intelligence Service.

DLA

FOIA training for Attorneys and Access and Annual Update Seminar on FOIA sponsored by Justice Department was conducted. Office of Personnel Management sponsored FOIA/PA training on three different occasions.

DMA

Office of Personnel Management sponsored FOIA and Privacy Act Update training and DMA sponsored several Instructor Supervisory Training classes.

DNA

Several FOIA courses were sponsored and conducted by DNA PAO and Office of the Secretary of Defense.

NSA/CSS

FOIA for Attorneys and Access Professionals and Annual Update Seminar on the FOIA was sponsored by Department of Justice.