



DEPARTMENT OF THE NAVY
COMMANDER, NAVY INSTALLATIONS COMMAND
716 SICARD STREET, SE, SUITE 1000
WASHINGTON NAVY YARD, DC 20374-5140

CNICINST 5720.1
N00J
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CNIC INSTRUCTION 5720.1

From: Commander, Navy Installations Command

Subj: FREEDOM OF INFORMATION ACT (FOIA) PROGRAM

Ref: (a) Section 552 of Title 5, United States Code, "Freedom of Information Act"
(b) SECNAVINST 5720.42F
(c) President of the United States Memorandum for the Heads of Executive Departments and Agencies, "Transparency and Open Government," Page 4685 of Volume 74 Federal Register, of 26 Jan 09
(d) DODINST 5400.07-R, "Department of Defense Freedom of Information Act Program Regulation," 11 Apr 06
(e) DoD Directive 5400.07, "DoD Freedom of Information Act (FOIA) Program," of 2 Jan 08
(f) Acting Director of Department of Defense Administration and Management Memorandum, "Department of Defense (DoD) Freedom of Information Act (FOIA) Program," of 10 Aug 09

Encl: (1) Glossary
(2) Processing FOIA Requests

1. Purpose. To implement the Department of the Navy's (DoN) Freedom of Information Act (FOIA) program at Commander, Navy Installations Command (CNIC) Headquarters (HQ) and its subordinate activities.

2. Background

a. In accordance with reference (a) the FOIA applies to records maintained by agencies within the Executive Branch of the Federal government. FOIA guarantees any person the right, enforceable by law, to access Federal agency records, except to the extent that such records (or portions thereof) are protected from disclosure by one or more of the nine FOIA exemptions or one of the three special law enforcement exclusions. The policy

and procedures of the DoN FOIA program are outlined in reference (b).

b. All definitions contained in references (a) through (f) are incorporated herein. Enclosure (1) provides terms and definitions as they apply to this instruction. Enclosure (2) provides the procedures to process FOIA requests, including public access requirements and annual reporting requirements.

3. Policy

a. In accordance with reference (c), CNIC shall conduct its activities in an open and transparent manner consistent with the need for security and adherence to all applicable laws and regulations. Records not specifically exempt from disclosure shall, upon request, be promptly made accessible to the requesting public in accordance with references (a) through (f) and this instruction.

b. The policies and procedures contained in this instruction apply to written requests from members of the public for CNIC records.

4. Responsibilities

a. Region Commanders are responsible for ensuring Region instructions comply with references (a) through (f) and this instruction. Every effort shall be made to ensure persons responsible for implementing FOIA receive training sufficient to execute an effective FOIA program.

b. CNIC Force Judge Advocate is assigned as the CNIC FOIA Coordinator and is responsible for:

(1) Processing all FOIA requests according to the Department of Defense (DoD), DoN, and CNIC FOIA programs outlined in references (a) through (f) and this instruction.

(2) Providing policy guidance, advice, and information in accordance with the DoD, DoN, and CNIC FOIA programs.

(3) Ensuring compliance with the procedures for tracking the receipt, control, follow-up, response to, and filing of FOIA requests in accordance with the DoD, DoN, and CNIC FOIA programs.

c. Region FOIA coordinators are responsible for:

(1) Processing all FOIA requests according to the DoD, DoN, and CNIC FOIA programs outlined in references (a) through (f) and this instruction.

(2) Providing policy guidance, advice, and information in accordance with the DoD, DoN, and CNIC FOIA programs.

(3) Establishing and maintaining FOIA procedures for tracking the receipt, control, follow-up, response to, and filing of FOIA requests in accordance with the DoD, DoN, and CNIC FOIA programs.

d. CNIC and Region Program Directors, Department Heads and Special Assistants are responsible for:

(1) Conducting a reasonable search of agency records to identify and retrieve responsive records.

(2) Reviewing any responsive records to identify potentially exempt information and articulating any foreseeable harm likely to result from disclosure.

(3) Developing Standard Operating Procedures (SOP's) within departments and programs for processing routine requests. For example, the security officer should establish an SOP detailing the local procedure for processing requests for Incident Complaint Reports, and the Fleet and Family Service Center Program Director should establish an SOP detailing the local procedure for requesting copies of Family Advocacy Program records.

5. Action

a. Region Commanders shall ensure implementation of references (a) through (f) and this instruction within their respective areas of responsibility.

b. CNIC FOIA Coordinator shall:

(1) Provide general awareness training to command personnel on the FOIA program.

(2) Compile input from region FOIA coordinators and prepare a consolidated annual report of the CNIC FOIA program in accordance with enclosure (2).

(3) Establish, maintain, and update the CNIC FOIA Reading Room in accordance with references (b) and (d).

(4) Coordinate implementation of E-FOIA requirements with the CNIC HQ Webmaster to ensure information placed on the command's website does not violate law or regulation.

c. Region FOIA Coordinators shall:

(1) Furnish the name, title, telephone number, fax number, and e-mail address of the Command FOIA Coordinator to the CNIC FOIA Coordinator.

(2) Provide general awareness training to command personnel on the FOIA program.

(3) Compile input for the CNIC annual report in accordance with enclosure (2).

(4) Establish, maintain, and update reading rooms for their activities in accordance with references (b) and (d).

(5) Ensure responsive documents held by their activities are also placed in the reading room for public access in accordance with enclosure (2).

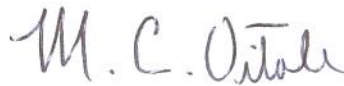
(6) Coordinate implementation of E-FOIA requirements with the activity Webmaster to ensure information placed on the command's website does not violate law or regulation.

d. CNIC and Region Program Directors, Department Heads and Special Assistants shall:

(1) Where necessary, identify a FOIA subject matter expert (SME). Such person shall assume responsibility for searching, retrieving, and reviewing agency records in response to FOIA requests. The SME shall also be prepared to testify in court or before an administrative authority concerning actions taken on a FOIA request.

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(2) Deliver all responsive documents promptly to the Command FOIA Coordinator along with a brief memorandum delineating the research conducted and the recommendation as to the releasability of each responsive document.



M. C. VITALE
Vice Admiral, U.S. Navy

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GLOSSARY

Unless otherwise noted, these terms and their definitions are solely for the purposes of this instruction.

CNIC FOIA Coordinator. The CNIC Force Judge Advocate or other designee appointed in accordance with enclosure (2).

CNIC Record. Any documentary material, regardless of physical form or characteristics, made or received by CNIC in connection with the transaction of public business and in the possession or control of CNIC at the time the FOIA request is made. The term includes products of data compilation, such as papers, books, maps, photographs, machine-readable materials, including in electronic form.

Command FOIA Coordinator. Any command designated FOIA coordinator appointed in accordance with enclosure (2).

Perfected FOIA Request. A written request from a member of the public, but not including a federal agency or a fugitive from the law, for a copy of a CNIC record, that reasonably describes the records sought, and either explicitly or implicitly invokes the FOIA, DoD or DoN FOIA regulations, this instruction or any CNIC subordinate command's supplementing FOIA instruction. Written requests should also indicate a willingness to pay fees or, in the alternative, why a fee waiver would be appropriate. Requests must include a postal mailing address since it may be impractical to provide a substantive response electronically. The request is perfected when the above conditions are met and the request arrives at CNIC.

PROCESSING FOIA REQUESTS

1. Public Access.

a. Records created on or after 1 November 1996 must be available in hard copy and electronically in a FOIA Reading Room for inspection and copying if the agency determines the records have become or are likely to become the subject of subsequent requests or otherwise require publication under FOIA. Documents to be placed in a reading room will be reviewed before being made available to the public to ensure that release of such records precludes information protected under FOIA. In addition, an index of records processed under this section will be maintained and made available to the public in hard copy and electronic format. The CNIC HQ FOIA Reading Room is located at [http://cnic.navy.mil/CNIC HQ Site/FOIA/ReadingRoom/index.htm](http://cnic.navy.mil/CNIC_HQ_Site/FOIA/ReadingRoom/index.htm).

b. Every CNIC activity shall establish a telephone line or internet service that provides information about the status of a request to the requester using the assigned tracking number, including the date on which the agency originally received the request and an estimated completion date.

2. Initial Denial Authorities (IDA) at CNIC.

a. CNIC HQ or any other subordinate designated in writing as the IDA.

b. CNIC Region Commanders or any other subordinate designated in writing as the IDA.

3. Processing FOIA Requests. All FOIA requests must be processed in accordance with references (a) through (f) and the following procedures:

a. Command Receipt. IDA must make an initial determination to grant or deny a FOIA request within 20 working days, unless an extension is granted. This 20 day time clock begins on the date the request is first received by CNIC. If the request is received by an employee not designated to receive FOIA requests, then the request shall be immediately forwarded to the Command FOIA Coordinator to record date of receipt, review, case number assignment and for entry into a control system to track the request from command receipt to response. All control systems must ensure accountability and compliance with the requirements outlined in references (a) through (f).

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b. Multi-track Processing. When an activity has a significant number of pending requests preventing a determination within 20 working days, all requests shall then be processed in a minimum three-track processing system as outlined in references (b) and (d) and in accordance with the following criteria:

(1) Simple requests are perfected requests of limited scope, specifically identify records being sought and are generally capable of being processed within 20 working days;

(2) Expedited requests are perfected requests in which the requester demonstrates a "compelling need" for expedited processing in one of two ways:

a. Failure to obtain records quickly could reasonably be expected to pose an imminent threat to the life or physical safety of the individual; or

b. If the requester is a person primarily engaged in disseminating information and there is an urgent need to inform the public about an actual or alleged CNIC activity.

c. IDA must determine whether to grant a request for expedited processing within 10 calendar days of receipt.

(3) Complex requests are perfected requests that are broad in scope; cover a large number of years; require coordination with multiple agencies; request voluminous materials; require significant technical, non-legal expertise for redaction; require the application of multiple FOIA exemptions; and/or do not otherwise qualify as simple or expedited requests according to the Command FOIA Coordinator.

(4) All FOIA requests shall be processed on a first in, first out basis within each track.

c. Search. The Command FOIA Coordinator will forward perfected FOIA requests to the Program Director, Department Head or Special Assistant believed to possess or control the responsive records. The Program Director, Department Head or Special Assistant will then conduct a reasonable search for responsive documents in accordance with references (a) through (f) and this instruction.

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d. Referrals. If, after review of a perfected FOIA request, the Command FOIA Coordinator determines the requested records are not within the custody or control of the command, the Command FOIA Coordinator will then forward the request to the appropriate agency in accordance with reference (b).

e. Final Response. Every effort shall be taken to ensure procedural delays do not unnecessarily impede processing the request. A final response to the requester shall be issued within 20 working days unless either a formal or informal extension is received in accordance with reference (b). Command FOIA Coordinators may negotiate informal extensions with the requester if reasonable and necessary for a full and final response (e.g., the request is categorized as a complex FOIA request). All extensions, formal or informal, must be documented.

f. Denial Response. If any portion of the request is denied, the Command FOIA Coordinator shall maintain a copy of the denial letter. All denial letters shall cite the applicable exemption(s), the name and title of the person denying the request, and inform the requester of the appeal procedures outlined in reference (b).

g. Notice of Significant FOIA Release.

(1) In accordance with reference (f), all Command FOIA Coordinators must provide the Defense Freedom of Information Policy Office (DFOIPO) a synopsis of each upcoming significant FOIA release a week in advance. A "significant FOIA release" is one the Command FOIA Coordinator believes may generate media interest or may be of interest to DoD senior leadership.

(2) The notification of a significant FOIA release shall be sent in email format via the CNIC FOIA Coordinator. The email subject line must contain the words "Significant FOIA Release." The body of the message should be a summary containing, at a minimum, the name/organization of the requester, a summary of the information being released, and the estimated date of release. Any additional information the Command FOIA Coordinator believes pertinent for DoD leadership consideration should also be included.

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4. Annual FOIA Report

a. The annual FOIA report is compiled on a fiscal year basis (1 October through 30 September). Feeder reports from all regions are due to CNIC's FOIA Coordinator by the 25th of October each year. Negative reports are required.

b. CNIC FOIA Coordinator shall submit a consolidated report for CNIC Headquarters and all subordinate activities to CNO (N09B30) by 10 November each year.