

# **DEPARTMENT OF DEFENSE**



## **FREEDOM OF INFORMATION ACT PROGRAM CY 1985**

### **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 1985 FREEDOM OF INFORMATION ACT  
ANNUAL REPORT  
Highlights**

A total of 83,173 public requests for records under the Freedom of Information Act (FOIA) were processed during 1985 by the Department of Defense. This compares with an average annual case load of 67,121 for the years 1975-1984, the reporting period since the act was amended, and is roughly 19% above average. One thousand nine hundred and forty-six cases required time limit extensions — 113 for location, 522 for volume, 1,310 for consultation, and one due to court involvement.

The Department of Defense initially granted over 81% of the requests. There were 6,058 requests denied on the basis of FOIA exemptions. Of these initially denied requests, 1 of 5 was because continued classification was warranted; 1 of 4 was because the record requested was an internal memorandum; 1 of 25 was because of statutory exemption; 1 of 6 was because the information requested was considered proprietary data; 1 of 5 was because the record requested involved investigatory data; and 1 of 5 was because information requested involved personal privacy. An additional 10,072 requests could not be fulfilled in whole or in part for other reasons, such as lack of record requested, transferral to another agency, or lack of specificity sufficient to identify the requested records. There were 770 appeals of denied requests; 81 appeals were fully granted, 233 partially granted, and 456 again rejected.

Administrative costs associated with these requests were approximately \$10,875,700, somewhat more than the \$8,702,610 average for the 1975-1984 period. The average cost of processing a single case during 1985 was approximately \$130, the approximate cost average for the 1975-1984 period, and \$20 less than 1984. Fee collections for records provided to the public amounted to \$495,417.

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

**Department of Defense  
Reporting Agencies under the Freedom of Information Act**

<u>Agency Abbreviation</u>	<u>Agency</u>	<u>Agency Head</u>
OSD/OJCS	Office of the Secretary of Defense (Including the Organization of the Joint Chiefs of Staff)	Hon Caspar W. Weinberger
Dept. Army	Secretary of the Army	Hon John O. Marsh, Jr.
Dept. Navy	Secretary of the Navy	Hon John Lehman
Dept. Air Force	Secretary of the Air Force	Hon Russell A. Rourke
DCA	Defense Communications Agency	LtGen Winston D. Powers, USAF
DCAA	Defense Contract Audit Agency	Mr. Fred J. Newton
DIA	Defense Intelligence Agency	LtGen Leonard H. Perroots, USAF
DIS	Defense Investigative Service	Mr. Thomas J. O'Brien
DLA	Defense Logistics Agency	LtGen Donald M. Babers, USA
DMA	Defense Mapping Agency	MajGen Robert A. Rosenberg, USAF
DNA	Defense Nuclear Agency	LtGen John L. Pickett
NSA/CSS	National Security Agency Central Security Service	LtGen William E. Odom, USA
CINCLANTCOM	Commander-in-Chief, Atlantic Command	Adm Lee Baggett, USN
CINCEUCOM	Commander-in-Chief, U.S. European Command	Gen Bernard W. Rogers, USA
CINCPACOM	Commander-in-Chief, Pacific Command	Adm Ronald J. Hayes, USN
CINCREDCOM	Commander-in-Chief, U.S. Readiness Command	Gen Fred K. Mahaffey, USA
CINCSO	Commander-in-Chief, U.S. Southern Command	Gen James R. Galvin, USA
CINCCENTCOM	Commander-in-Chief, U.S. Central Command	Gen George B. Crist, USA
USSPACECOM	Commander-in-Chief, U.S. Space Command	Gen Robert T. Herres, USAF

**Department of Defense  
FOI Appeal and Program Officials**

<u>Agency Abbreviation</u>	<u>Appellate Authority</u>	<u>Program Official</u>
OSD/OJCS	Hon Robert B. Sims Asst SecDef Public Affairs	Mr. William M. McDonald Director, FOI and Security Review, OASD/PA
Dept. Army	General Counsel Secretary of the Army	Mr. W.A. Anderson Chief, Records Mgmt Division The Adjutant General Center
Dept. Navy	Judge Advocate General/ General Counsel for Secretary of the Navy	Mrs. Gwendolyn R. Aitken PA/FOIA Coordinator Naval Records Division OPNAV
Dept. Air Force	Mr. Robert J. McCormick Admin Asst to the Secretary of the Air Force	Ms. Kip Ward OPR for Freedom of Information Documentation Systems Division
DCA	LtGen W.D. Powers, USAF Director	Mr. John T. Whealen General Counsel
DCAA	Mr. John H. van Santen Asst Director, Resources	Mrs. Connie Miller Records Administrator
DIA	LtGen Leonard A. Rosenberg, USAF Director	Mr. Robert C. Hartzog FOIA Officer
DIS	Mr. Thomas J. O'Brien Director	Mr. Dale L. Hartig Chief, Information/Public Affairs
DLA	LtGen Donald M. Babers, USA Director	Col G.A. White, USAF Staff Director, Administration
DMA	Mr. Edward Obloy General Counsel	Mr. Del Malkie Director, Public Affairs
DNA	LtGen John L. Pickitt USAF, Director	LtCol Carlton W. Brown, Jr., USA Public Affairs Officer
NSA/CSS	Mr. Robert E. Rich Deputy Director	Ms. Julia B. Wetzel Director of Policy
CINCLANTCOM	Hon Robert B. Sims Asst SecDef Public Affairs	Capt Owen J. Resweber, USN Internal Relations Officer
CINCEUCOM	Hon Robert B. Sims Asst SecDef Public Affairs	Mr. David K. Swiney Administrator
CINCPACOM	Hon Robert B. Sims Asst SecDef Public Affairs	Mr. Harrison Lee Chief, Administrative & Security Program's Division
CINCREDCOM	Hon Robert B. Sims Asst SecDef Public Affairs	Ms. G.T. Gentry FOIA Officer
CINCSO	Hon Robert B. Sims Asst SecDef Public Affairs	LtCol Richard A. Novak, USAF Deputy Legal Advisor
CINCCENTCOM	Hon Robert B. Sims Asst SecDef Public Affairs	Maj Glenn H. Smallwood, USAF Deputy Adjutant General
USSPACECOM	Hon Robert B. Sims Asst SecDef Public Affairs	Mr. F.P. Thompson Chief, Records Management Directorate

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Item 1

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

Reporting Activity	Total Demands		Reasons			
	Completed Public Requests	Completed Reportable Requests*	Statutory Exemptions	+	Other	= Total
OSD/OJCS	2,047	3,734	314		813	1,127
DEPT ARMY	26,267	27,581	1,986		1,431	3,417
DEPT NAVY	22,480	24,755	1,155		3,268	4,423
DEPT AF	18,994	21,541	1,854		3,082	4,936
DCA	240	243	17		0	17
DCAA	210	329	40		159	199
DIA	1,291	1,703	147		469	616
DIS	186	186	29		52	81
DLA	10,456	13,105	149		460	609
DMA	182	182	34		17	51
DNA	130	149	14		29	43
NSA/CSS	584	602	280		266	546
CINCLANTCOM	8	19	5		5	10
CINCEUCOM	14	17	11		3	14
CINCPACOM	45	52	10		14	24
CINCREDCOM	21	28	7		0	7
CINCSO	1	1	0		0	0
CINCCENTCOM	13	13	6		0	6
USSPACECOM	4	4	0		4	4
<b>DoD Totals</b>	<b>83,173</b>	<b>94,244</b>	<b>6,058</b>		<b>10,072</b>	<b>16,130</b>

\*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/OJCS	163	5	21	24	111	43	77	0	0	444
DEPT ARMY	583	41	0	248	364	437	598	0	0	2,271
DEPT NAVY	67	18	26	197	245	413	269	0	0	1,235
DEPT AF	156	28	64	676	1,064	385	419	0	0	2,792
DCA	12	3	0	0	0	2	0	0	0	17
DCAA	0	16	0	3	14	1	6	0	0	40
DIA	219	16	36	11	20	20	8	0	0	330
DIS	0	2	0	2	3	26	1	0	0	34
DLA	1	2	1	88	83	7	13	0	0	195
DMA	4	0	0	18	12	8	1	0	0	43
DNA	2	1	0	8	2	1	0	0	0	14
NSA/CSS	135	8	183	30	5	6	0	0	0	367
CINCLANTCOM	3	0	1	0	0	1	0	0	0	5
CINCEUCOM	11	0	0	0	0	0	0	0	0	11
CINCPACOM	10	0	0	0	3	0	0	0	0	13
CINCREDCOM	6	0	0	0	2	0	0	0	0	8
CINCSO	0	0	0	0	0	0	0	0	0	0
CINCCENTCOM	6	0	1	0	0	0	0	0	0	7
USSPACECOM	0	0	0	0	0	0	0	0	0	0
<b>DoD Totals</b>	<b>1,378</b>	<b>140</b>	<b>333</b>	<b>1,305</b>	<b>1,928</b>	<b>1,350</b>	<b>1,392</b>	<b>0</b>	<b>0</b>	<b>7,826</b>
<b>Percent of Total</b>	<b>18</b>	<b>2</b>	<b>4</b>	<b>16</b>	<b>25</b>	<b>17</b>	<b>18</b>	<b>0</b>	<b>0</b>	<b>100</b>

\*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/OJCS	DEPT NAVY	DEPT AF	DIA	DLA	NSA/CSS	CINCLANTCOM CINCCENTCOM	
10 U.S.C. 140c, as added by Public Law 98-94, Section 1217	1	26	19					46
18 U.S.C. 798			3			84		87
18 U.S.C. 1905			34					34
18 U.S.C. 1917					1			1
42 U.S.C. 2161	1							1
42 U.S.C. 2162	11		5				1	17
42 U.S.C. 2163	2							2
42 U.S.C. 2164	1							1
42 U.S.C. 2165	1							1
42 U.S.C. 2166	1							1
42 U.S.C. 4582			1					1
50 U.S.C. 402 <u>note</u> , Section 6, Public Law 86-36	2		2	6		183		193
50 U.S.C. 403(d)(3)	1			30		125		156
National Security Act 1947, Section 102(d)(3), CIA Act of 1949							1	1
<b>Agency Totals</b>	<b>21</b>	<b>26</b>	<b>64</b>	<b>36</b>	<b>1</b>	<b>392</b>	<b>1</b>	<b>542</b>

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



Item 2(c)

**Other Reasons Cited on Initial Determinations**

Reporting Activity	Category*					Total
	1	2	3	4	5	
OSD/OJCS	463	260	24	31	35	813
DEPT ARMY	615	357	132	315	12	1,431
DEPT NAVY	1,972	709	125	127	335	3,268
DEPT AF	519	1,484	259	470	350	3,082
DCA	0	0	0	0	0	0
DCAA	106	33	12	4	4	159
DIA	18	203	19	225	4	469
DIS	4	21	3	24	0	52
DLA	119	265	37	6	33	460
DMA	5	7	2	0	3	17
DNA	16	11	1	1	0	29
NSA/CSS	2	42	0	208	14	266
CINCLANTCOM	2	3	0	0	0	5
CINCEUCOM	1	2	0	0	0	3
CINCPACOM	6	8	0	0	0	14
CINCREDCOM	0	0	0	0	0	0
CINCSO	0	0	0	0	0	0
CINCCENTCOM	0	0	0	0	0	0
USSPACECOM	0	4	0	0	0	4
<b>DoD Totals</b>	<b>3,848</b>	<b>3,409</b>	<b>614</b>	<b>1,411</b>	<b>790</b>	<b>10,072</b>

\*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  
(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.

Item 3

**Initial Denial Officials by Participation  
(Agency Reports List Names and Titles)**

A. Exemption Denials

Agency	Number of Officials Categorized by Instances of Participation							Total Officials*
	Officials Authorized	1	2-3	4-5	6-10	11-40	41+	
OSD/OJCS	60	23	14	8	4	7	1	57
DEPT ARMY	23	2	3	3	0	5	7	20
DEPT NAVY	315	28	31	10	9	15	6	99
DEPT AF	106	15	25	10	15	30	9	104
DCA	17	0	0	0	0	1	0	1
DCAA	7	1	1	0	0	1	0	3
DIA	1	0	0	0	1	2	1	4
DIS	1	0	0	0	0	1	0	1
DLA	22	5	5	3	4	5	0	22
DMA	11	0	1	0	1	1	0	3
DNA	1	1	1	0	1	0	0	3
NSA/CSS	1	0	0	0	0	0	1	1
CINCLANTCOM	1	0	0	1	0	0	0	1
CINCEUCOM	1	0	0	0	0	1	0	1
CINCPACOM	3	1	0	2	0	0	0	3
CINCREDCOM	3	0	0	0	1	0	0	1
CINCSSO	54	0	0	0	0	0	0	0
CINCCENTCOM	1	0	0	0	1	0	0	1
USSPACECOM	2	0	0	0	0	0	0	0
<b>DoD Totals</b>	<b>630</b>	<b>76</b>	<b>81</b>	<b>37</b>	<b>37</b>	<b>69</b>	<b>25</b>	<b>325</b>

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

Item 3

**Initial Denial Officials by Participation  
(Agency Reports List Names and Titles)  
(Cont'd)**

**B. Other Authority Denials\***

Agency	Number of Officials Categorized by Instances of Participation						Total Officials*
	Number of Instances						
	1	2-3	4-5	6-10	11-40	41+	
OSD/OJCS	3	4	2	5	10	3	27
DEPT ARMY	0	3	1	1	2	4	11
DEPT NAVY	18	23	9	16	13	14	93
DEPT AF	1	2	1	1	5	13	23
DCA	0	0	0	0	0	0	0
DCAA	0	0	0	0	6	1	7
DIA	0	0	0	0	0	1	1
DIS	0	0	0	0	0	1	1
DLA	0	0	0	0	0	1	1
DMA	2	2	0	1	0	0	5
DNA	0	0	0	1	1	0	2
NSA/CSS	0	0	0	0	0	1	1
CINCLANTCOM	0	0	1	0	0	0	1
CINCEUCOM	0	1	0	0	0	0	1
CINCPACOM	0	0	0	0	1	0	1
CINCREDCOM	0	0	0	0	0	0	0
CINCSO	0	0	0	0	0	0	0
CINCCENTCOM	0	0	0	0	0	0	0
USSPACECOM	0	0	1	0	0	0	1
<b>DoD Totals</b>	<b>24</b>	<b>35</b>	<b>15</b>	<b>25</b>	<b>38</b>	<b>39</b>	<b>176</b>

\*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	Total
OSD/OJCS	9	23	29	61
DEPT ARMY	22	66	108	196
DEPT NAVY	15	40	152	207
DEPT AF	30	51	110	191
DCA	0	0	0	0
DCAA	0	1	0	1
DIA	0	34	33	67
DIS	0	0	0	0
DLA	3	13	11	27
DMA	0	0	2	2
DNA	1	0	1	2
NSA/CSS	1	5	10	16
CINCLANTCOM	0	0	0	0
CINCEUCOM	0	0	0	0
CINCPACOM	0	0	0	0
CINCREDCOM	0	0	0	0
CINCSO	0	0	0	0
CINCCENTCOM	0	0	0	0
USSPACECOM	0	0	0	0
<b>DoD Totals</b>	<b>81</b>	<b>233</b>	<b>456</b>	<b>770</b>

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/OJCS	35	1	6	1	19	5	10	0	0	77
DEPT ARMY	26	5	0	8	63	22	25	0	0	149
DEPT NAVY	18	9	1	13	44	51	41	0	0	177
DEPT AF	33	1	2	15	75	55	29	0	0	210
DCA	0	0	0	0	0	0	0	0	0	0
DCAA	0	1	0	1	1	0	0	0	0	3
DIA	66	1	1	1	2	3	0	0	0	74
DIS	0	0	0	0	0	0	0	0	0	0
DLA	0	0	0	8	12	2	3	0	0	25
DMA	1	0	0	0	1	0	0	0	0	2
DNA	0	0	0	0	0	0	0	0	0	0
NSA/CSS	14	0	15	0	4	0	0	0	0	33
CINCLANTCOM	0	0	0	0	0	0	0	0	0	0
CINCEUCOM	0	0	0	0	0	0	0	0	0	0
CINCPACOM	0	0	0	0	0	0	0	0	0	0
CINREDCOM	0	0	0	0	0	0	0	0	0	0
CINCSO	0	0	0	0	0	0	0	0	0	0
CINCCENTCOM	0	0	0	0	0	0	0	0	0	0
USSPACECOM	0	0	0	0	0	0	0	0	0	0
<b>DoD Totals</b>	<b>193</b>	<b>18</b>	<b>25</b>	<b>47</b>	<b>221</b>	<b>138</b>	<b>108</b>	<b>0</b>	<b>0</b>	<b>750</b>
<b>Percent of Total</b>	<b>26</b>	<b>3</b>	<b>4</b>	<b>6</b>	<b>29</b>	<b>18</b>	<b>14</b>	<b>0</b>	<b>0</b>	<b>100</b>

\*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*
	OSD/OJCS	DEPT NAVY	DEPT AF	DIA	NSA/CSS	
10 U.S.C. 140c, as added by Public Law 98-94, Section 1217		1	2			3
18 U.S.C. 798					13	13
42 U.S.C. 2161	1					1
42 U.S.C. 2162	1					1
42 U.S.C. 2163	1					1
42 U.S.C. 2164	1					1
42 U.S.C. 2165	1					1
42 U.S.C. 2166	1					1
50 U.S.C. 402 <u>note</u> , Section 6, Public Law 86-36					15	15
50 U.S.C. 403(d)(3)				1	14	15
<b>Agency Totals</b>	<b>6</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>42</b>	<b>52</b>

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

Item 5(c)

**Other Reasons Cited on Appeal Determinations**

Reporting Activity	Category*					Total
	1	2	3	4	5	
OSD/OJCS	3	0	0	2	0	5
DEPT ARMY	24	0	0	0	1	25
DEPT NAVY	14	6	4	10	16	50
DEPT AF	0	0	0	0	0	0
DCA	0	0	0	0	0	0
DCAA	0	0	0	0	0	0
DIA	0	0	0	0	0	0
DIS	0	0	0	0	0	0
DLA	0	0	0	0	4	4
DMA	0	0	0	0	0	0
DNA	0	0	0	0	1	1
NSA/CSS	0	0	0	0	0	0
CINCLANTCOM	0	0	0	0	0	0
CINCEUCOM	0	0	0	0	0	0
CINCPACOM	0	0	0	0	0	0
CINCREDCOM	0	0	0	0	0	0
CINCSO	0	0	0	0	0	0
CINCCENTCOM	0	0	0	0	0	0
USSPACECOM	0	0	0	0	0	0
<b>DoD Totals</b>	<b>41</b>	<b>6</b>	<b>4</b>	<b>12</b>	<b>22</b>	<b>85</b>

**\*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.
- See Page 5 for full description of "other reasons".



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

Name	Title	No. of Instances of Participation	
		Exemption	Other
<b>OSD/OJCS</b>			
Robert B. Sims	Assistant Secretary of Defense (Public Affairs)	5	0
Michael I. Burch	Assistant Secretary of Defense (Public Affairs)	16	0
Fred S. Hoffman	Principal Deputy ASD (Public Affairs)	26	5
<b>DEPT ARMY</b>			
Darrell L. Peck	Deputy General Counsel	149	25
<b>DEPT NAVY</b>			
RADM T.E. Flynn, USN	Judge Advocate General	53	4
RADM R.L. Slater, USN	Acting Judge Advocate General	51	6
CAPT W.A. Kjos, USN	Deputy Judge Advocate General	0	29
CDR W.C. Henderson, USN	Acting Deputy Judge Advocate General	0	6
W.W. Skallerup, Jr.	General Counsel	24	1
Hugh O'Neill	Acting General Counsel	12	0
C.J. Turnquist	Acting General Counsel	2	0
J.T. Tate, Jr.	Assistant General Counsel	0	4
<b>DEPT AF</b>			
Steven A. Thompson	Deputy, Administrative Assistant Secretary of the Air Force	161	0

**PARTICIPATION OF APPELLATE AUTHORITIES  
(Those Responsible for Denials in Whole or in Part)  
(Cont'd)**

Name	Title	No. of Instances of Participation	
		<u>Exemption</u>	<u>Other</u>
<b>DCAA</b>			
John Van Santen	Asistant Director, Resources	1	0
<b>DIA</b>			
MGEN S. Bissell, USAF	Deputy Director	62	0
RADM R.W. Schmidt, USN	Deputy Director	4	0
CAPT James Law, USN	Acting Deputy Director	1	0
<b>DLA</b>			
LGEN D. Babers, USA	Director	8	4
MGEN D. Litke, USA	Deputy Director	12	0
<b>DMA</b>			
Edward J. Obloy	General Counsel	2	0
<b>DNA</b>			
LGEN J.L. Pickitt, USAF	Director	0	1
<b>NSA/CSS</b>			
Robert E. Rich	Deputy Director	15	0

## Court Opinions and Action Taken

### DEPT NAVY

*Richards v. Lehman, et al.*, No. 836230 MML (GX) (C.D. Cal.). Plaintiff appealed alleged failure to provide records on his activities. Dismissed on March 28, 1985.

*Hopkins v. Department of the Navy*, Civil Action No. 84-1868 (D.D.C.). Plaintiff sought current rosters of certain Marine Corps units at Quantico, Virginia. Case decided in favor of plaintiff.

*Stokwitz v. United States*, Civil No. 84-2605 (S.D. Cal.). Plaintiff sought an NIS investigation being reviewed by United States Attorney for possible prosecution. Final order in May 1985 ordered release of majority of NIS report.

*Center for Constitutional Rights v. Department of the Navy*, Civil No. 85-3848-LBS, (S.D. N.Y., filed May 21, 1985). Plaintiff sought documents relating to treatment of visitors to USS Iowa while docked in New York Harbor in October 1984. Decision in favor of Government in October 1985.

*Cooley v. Department of the Navy*, Civil No. 85-1045 (D.D.C.). Plaintiff sought documents deleting his name from promotion list to flag rank. Memorandum and Order filed December 30, 1985, granting defendant's motion for Summary Judgment and denying plaintiff's motion for *in camera* inspection.

*Kenney v. Department of the Navy*, Civil No. 85-7929 (E.D. Ill.). Plaintiff sought Mishap Investigation Reports of AH1 and UH1 helicopter accidents. Navy agreed to supply JAGMAN investigations.

*Robert D. Kalmin v. Department of the Navy*, Civil No. 84-1399 (D.D.C.). Civilian employee contested withholding documents relative to employment and performance. More than 500 disclosed, 27 withheld. Plaintiff appeal was withdrawn in June 1985.

*Burnside-Ott Aviation Training Center, Inc. v. U.S.*, Civil No. 82-0105-CIV WMH (D.C. Southern Florida). Reverse FOIA action to enjoin release of alleged trade secret data. Decision for defendant and judgment order entered June 24, 1985.

*American Aviation Research Association v. Department of the Navy*, Case No. 84-CA-08888 (S.D. TX, SA). Documents relative to eligibility for donation of surplus property. Government Motion for Summary Judgment granted in June 1985.

*NAS v. Department of the Navy*, Civil No. 84-0120. (D.D.C.) Suit by requester. Exemption (3) claimed. Settled July 1985 in favor of requester.

### DIA

*Stephen J. Green v. Department of the Navy*, Civil No. 82-101 (D.C. Vermont). Documents relative to the Yom Kippur War. Government motion for Summary Judgment granted on December 4, 1985.

**FOIA IMPLEMENTATION RULES OR REGULATIONS**

Agency	Document Identification	Fed. Reg. Ref.
DoD	DoD Directive 5400.7, 24 Mar 1980	45 F.R. No. 84 29 Apr 1980, Pg 28323
	DoD Regulation 5400.7R, Dec 1980 Change 2, 28 Sep 1982; Change 3, 6 Dec 1982	45 F.R. No. 236 5 Dec 1980, Pg 80502
DEPT ARMY	AR 340-17, 1 Oct 1982	50 F.R. No. 518 20 Nov 1985, Pg 47730
DEPT NAVY	SECNAVINST 5720.42C, 1 Oct 1982	48 F.R. No. 101 24 May 1983, Pg 23194
DEPT AF	AFR 12-30, 15 Dec 1982	48 F.R. No. 69 8 Apr 1983, Pg 15248
DCA	DCA Instruction 210-225-1, 19 Dec 1980	Publication Pending
DCAA	DCAA Regulation 5410.5, 29 Aug 1977, Change 1	42 F.R. No. 154 10 Aug 1977, Pg 40433
	DCAA Instruction 5410.8, 27 Aug 1981	
DIA	DIA Regulation 12-39, 24 Aug 1981	Publication Pending
DIS	DIS Regulation 01-12, 2 Oct 1981	
DLA	DLA Regulation 5400.14, 2 Feb 1981	40 F.R. No. 34 6 Apr 1981, Pg 20541
DMA	DMA Instruction 5400.7, 22 Apr 1981	46 F.R. No. 124 29 Jun 1981, Pg 33245
DNA	DNA Instruction 5400.7, 29 July 1980	Publication Pending
NSA/CSS	NSA/CSS Regulation 10-9, 9 Feb 1982	

Item 9

**FEE SCHEDULE AND FEES  
COLLECTED**

The fee schedule on Pages 17 and 18, reprinted from Chapter 6, DoD Regulation 5400.7-R, December 1980, establishes standard costs collectible by Department of Defense Agencies.

\$495,417 was collected from the public for making records available during the year 1985 (see Item 10B, Page 20, for Agency totals).

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

**6-100 Application**

The fees described in this chapter apply to FOIA requests. They reflect direct search and duplication costs, collection of which are 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 (q)).

**6-101 Fee Assessment**

- a. Minimum fees shall not be charged.
- b. When direct search and duplication costs for a single FOIA request total less than \$30.00, fees should be waived automatically. The DoD Components, however, may set aside the automatic waiver provision when, on the basis of good evidence, the Component can demonstrate that waiver of fees is not in the public interest. Multiple requests from a single requester or from those acting in behalf of a single requester in an effort to take advantage of the waiver may create a situation in which waiver should be denied by the Component.
- c. Decisions to waive or reduce fees that exceed the automatic waiver threshold shall be made on a case-by-case basis. The following circumstances, however, describe the most common circumstances in which waiver or reduction of fees are most likely to be warranted.
  1. No record is located or all records are denied. However, fee charges are appropriate if the requester insists upon a search and agrees to such fees after being informed that the search is likely to be nonproductive or that the records are all likely to be exempt from release.
  2. A record is voluntarily created to preclude an otherwise burdensome effort to provide voluminous amounts of available records including additional information not requested.
  3. The records are to be made available in response to a news media requester whose requests under this regulation are reasonable in scope and frequency.
  4. The record is for a nonprofit public interest group and the subject of the requested record is known to be of wide public interest, and furnishing the information can be considered as primarily benefiting the general public.
  5. A previous denial is reversed in whole or in part and the search and reproduction costs involved are not substantial.

**6-102 Computation of Fees**

The fee schedule contained in this chapter is used to compute the search and duplication costs associated with processing a given FOIA request. Search fees shall be computed based on time actually spent. Neither time-based nor dollar-based minimum charges for search and duplication are authorized.

**Section 2**  
**COLLECTION OF FEES AND FEE RATES**

**6-200 Collection of Fees**

Collection of charges and fees need not be made in advance of rendering the service unless the costs are expected to exceed the fee waiver threshold and the requester has not indicated a willingness in writing to pay. It frequently is more practical to collect charges and fees at the time of providing the service or property to the recipient when the requester specifically states that the cost involved shall be acceptable or acceptable up to a specified limit that covers anticipated costs. Collection of fees in advance is an appropriate requirement only when the requester has not agreed in writing to pay the anticipated fee or has not honored previous commitments to pay fees that were owed an agency or component.

**6-201 Search Fees**

a. **Manual Search**

<u>Type</u>	<u>Grade</u>	<u>Hourly Rate (\$)</u>
Clerical	E9/GS8 and below	8
Professional	01-06/GS9-GS-15	16
Executive	07/GS16/ES1 and above	26

b. Computer search is based on direct cost of the central processing unit, input-output devices, and memory capacity of the actual computer configuration.

c. Actual cost of transporting records or personnel to the search site may be included.

**6-202 Duplication Fees**

<u>Type</u>	<u>Cost per Page (¢)</u>
Printed Material	01
Office Copy	10
Microfiche	25

**6-203 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.

**6-204 Other Records**

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

**Availability of Records**  
**(New Categories or segregable portions of records now being released)**

**OSD/OJCS**

"Medical Readiness Status in the U.S. Pacific Command," June 1, 1984

"Medical Readiness Status in the U.S. European Command," April 18, 1984

DoD policy on military personnel infected with Human T-Lymphotropic Virus Type III (HTLV-III), AIDS.



Item 10 B

**Calendar Year Costs and Fees Collected**

<b>USSPACECOM</b>		
<b>Reporting Activity</b>	<b>Annual Cost*</b>	<b>Annual Fees Collected</b>
OSD/OJCS	\$ 677,754	\$ 7,831
DEPT ARMY	3,224,174	152,799
DEPT NAVY	1,938,577	93,248
DEPT AF	3,495,637	106,142
DCA	14,942	789
DCAA	116,031	1,473
DIA	270,216	3,701
DIS	7,368	1,511
DLA	648,093	126,836
DMA	19,610	80
DNA	18,532	97
NSA/CSS	348,613	910
CINCLANTCOM	2,814	0
CINCEUCOM	44,763	0
CINCPACOM	25,613	0
CINCREDCOM	8,918	0
CINCSO	11,816	0
CINCCENTCOM	1,719	0
USSPACECOM	510	0
<b>DoD Totals</b>	<b>\$10,875,700</b>	<b>\$495,417</b>

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

## CALENDAR YEAR COSTS AND FEES COLLECTED BY DOD REPORTING AGENCIES

COST OUTLINE	OSD/OJCS	DEPT ARMY	DEPT NAVY	DEPT AF	DCA	DCAA	DIA
I Personnel Costs							
A. Estimated Manyeas*	10.87	104.31	47.26	91.00	.25	.97	5.77
B. Manyear Costs (Grades Considered)	\$428,338	\$1,990,130	\$1,168,410	\$1,938,856	\$ 9,684	\$ 91,447	\$153,095
C. Estimated Manhour Costs by Category (Fee Schedule Rates)**							
(1) Search Time	16,092	130,766	68,203	127,098	746	996	5,241
(2) Review & Excising	20,864	79,679	51,797	190,756	112	0	20,714
(3) Coordination & Approval	17,784	63,539	51,726	169,591	202	0	10,465
(4) Correspondence/Forms Preparation	5,434	51,197	34,897	79,224	296	0	3,672
(5) Other Activities	2,532	50,332	20,340	45,423	82	0	2,565
MANHOUR COST TOTAL	62,706	375,513	226,963	612,092	1,438	996	42,657
D. Total IB and IC	491,044	2,365,643	1,395,373	2,550,948	11,122	92,443	195,752
E. Overhead (Computed at 25%)	122,761	591,411	348,843	637,738	2,781	23,111	48,937
F. Total Personnel Costs	\$613,805	\$2,957,054	\$1,744,216	\$3,188,686	\$13,903	\$115,554	\$244,689
II. Other Case-Related Costs							
A. Computer Search Time	\$ 1,415	\$ 57,670	\$ 9,177	\$ 35,101	\$ 115	\$ 0	\$ 9,911
B. Reproduction	6,762	139,543	84,338	74,153	924	477	11,069
C. Microfiche Reproduction	112	12,720	1,412	6,934	0	0	772
D. Printed Records	380	2,935	3,361	3,106	0	0	2,512
E. Total of Other Case-Related Costs	\$ 8,669	\$ 212,868	\$ 98,288	\$ 119,294	\$ 1,039	\$ 477	\$ 24,264
III Reporting/Other Costs							
A. Reporting Costs							
(1) Operational	\$ 752	\$ 23,426	\$ 38,491	\$ 41,852	\$ 0	\$ 0	\$ 1,010
(2) User	2,176	1,164	25,191	1,646	0	0	0
(3) Overhead (Computed at 25%)	732	6,148	15,921	10,875	0	0	253
B. Other Operating Costs (Voluntary Reporting of items such as postage, travel, computer, etc.)	51,620	23,514	16,470	133,284	0	0	0
C. Total Reporting/Other Costs	\$ 55,280	\$ 54,252	\$ 96,073	\$ 187,657	\$ 0	\$ 0	\$ 1,263
IV Summary							
A. Total Costs, Sections I thru III	\$677,754	\$3,224,174	\$1,938,577	\$3,495,637	\$14,942	\$116,031	\$270,216
B. Amount Collected from the Public	\$ 7,831	\$ 152,799	\$ 93,248	\$ 106,142	\$ 789	\$ 1,473	\$ 3,701

\*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	DIS	DLA	DMA	DNA	NSA/CSS	CINCEUR	CINCLANT
<b>I Personnel Costs</b>							
A. Estimated Manyears*	.00	9.87	.19	.33	6.58	1.66	.01
B. Manyear Costs (Grades Considered)	\$ 0	\$201,254	\$ 5,866	\$ 6,595	\$220,653	\$34,660	\$2,061
C. Estimated Manhour Costs by Category (Fee Schedule Rates)**							
(1) Search Time	503	112,309	1,608	2,105	8,895	360	50
(2) Review & Excising	835	21,173	1,385	1,418	15,480	140	57
(3) Coordination & Approval	965	35,104	3,132	1,700	0	146	43
(4) Correspondence/Forms Preparation	484	17,932	1,564	499	638	496	31
(5) Other Activities	1,271	6,025	174	1,417	0	4	1
MANHOUR COST TOTAL	4,058	192,543	7,863	7,139	25,013	1,146	182
D. Total IB and IC	4,058	393,797	13,729	13,734	245,666	35,806	2,243
E. Overhead (Computed at 25%)	1,015	98,450	3,433	3,434	61,416	8,951	561
F. Total Personnel Costs	\$5,073	\$492,247	\$17,162	\$17,168	\$307,082	\$44,757	\$2,804
<b>II Other Case-Related Costs</b>							
A. Computer Search Time	\$1,178	\$ 82,364	\$ 0	\$ 272	\$ 40,387	\$ 0	\$ 0
B. Reproduction	32	14,364	250	608	1,144	3	10
C. Microfiche Reproduction	0	12,995	0	0	0	0	0
D. Printed Records	621	37,298	3	0	0	3	0
E. Total of Other Case-Related Costs	\$1,831	\$147,021	\$ 253	\$ 880	\$ 41,531	\$ 6	\$ 10
<b>III Reporting/Other Costs</b>							
A. Reporting Costs	\$ 371	\$ 4,086	\$ 577	\$ 387	\$ 0	\$ 0	\$ 0
(1) Operational	0	985	204	0	0	0	0
(2) User	93	1,268	196	97	0	0	0
B. Other Operating Costs (Voluntary Reporting of items such as postage, travel, computer, etc.)	0	2,486	1,218	0	0	0	0
C. Total Reporting/Other Costs	\$ 464	\$ 8,825	\$ 2,195	\$ 484	\$ 0	\$ 0	\$ 0
<b>IV Summary</b>							
A. Total Costs, Sections I thru III	\$7,368	\$648,093	\$19,610	\$18,532	\$348,613	\$44,763	\$2,814
B. Amount Collected from the Public	\$1,511	\$126,836	\$ 80	\$ 97	\$ 910	\$ 0	\$ 0

\* 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	CINCPAC	CINCREC	CINCSO	CINCENT	SPACECOM	TOTALS
I Personnel Costs						
A. Estimated Manyears*	1.95	.96	.18	.33	.01	282.50
B. Manyear Costs (Grades Considered)	\$15,833	\$4,489	\$ 9,422	\$ 820	\$316	\$ 6,281,929
C. Estimated Manhour Costs by Category (Fee Schedule Rates)**						
(1) Search Time	604	97	2	0	8	475,683
(2) Review & Excising	2,360	1,286	0	168	0	408,224
(3) Coordination & Approval	1,105	721	0	292	16	356,531
(4) Correspondence/Forms Preparation	415	236	4	84	4	197,107
(5) Other Activities	132	166	0	0	0	130,464
MANHOUR COST TOTAL	4,616	2,506	6	544	28	1,568,009
D. Total IB and IC	20,449	6,995	9,428	1,364	344	7,849,938
E. Overhead (Computed at 25%)	5,112	1,749	2,357	341	86	1,962,487
F. Total Personnel Costs	\$25,561	\$8,744	\$11,785	\$1,705	\$430	\$ 9,812,425
II Other Case-Related Costs						
A. Computer Search Time	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 237,590
B. Reproduction	48	88	1	8	1	333,824
C. Microfiche Reproduction	0	0	0	0	0	34,945
D. Printed Records	4	8	0	6	0	50,237
E. Total of Other Case-Related Costs	\$ 52	\$ 96	\$ 1	\$ 14	\$ 1	\$ 656,596
III Reporting/Other Costs						
A. Reporting Costs						
(1) Operational	\$ 0	\$ 62	\$ 24	\$ 0	\$ 63	\$ 111,101
(2) User	0	0	0	0	0	31,366
(3) Overhead (Computed at 25%)	0	16	6	0	16	35,621
B. Other Operating Costs (Voluntary Reporting of items such as postage, travel, computer, etc.)	0	0	0	0	0	228,592
C. Total Reporting/Other Costs	\$ 0	\$ 78	\$ 30	\$ 0	\$ 79	\$ 406,680
IV Summary						
A. Total Costs, Sections I thru III	\$25,613	\$8,918	\$11,816	\$1,719	\$510	\$10,875,700
B. Amount Collected from the Public	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 495,417

\*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 Unusual Circumstances			II & III Court Involvement	TOTAL
	Location	Volume	Consultation		
OSD/OJCS	68	79	1,017	0	1,164
DEPT ARMY	0	0	1	0	1
DEPT NAVY	8	276	21	0	305
DEPT AF	29	159	172	0	360
DCA	0	0	0	0	0
DCAA	1	1	5	0	7
DIA	0	0	0	0	0
DIS	7	4	9	1	21
DLA	0	0	67	0	67
DMA	0	0	12	0	12
DNA	0	0	0	0	0
NSA/CSS	0	0	0	0	0
CINCLANTCOM	0	0	0	0	0
CINCEUCOM	0	0	0	0	0
CINCPACOM	0	0	6	0	6
CINREDCOM	0	0	0	0	0
CINCSO	0	1	0	0	1
CINCCENTCOM	0	2	0	0	2
USSPACECOM	0	0	0	0	0
<b>DoD Totals</b>	<b>113</b>	<b>522</b>	<b>1,310</b>	<b>1</b>	<b>1,946</b>

Item 10 D

**Internal Memoranda  
(Including Directives not Published in Federal Register)**

<b>Reporting Activity</b>	<b>No. of Memoranda</b>	<b>No. Available to Public</b>
OSD/OJCS	1	1
DEPT ARMY	12	11
DEPT NAVY	7	7
DEPT AF	0	0
DCA	0	0
DCAA	0	0
DIA	0	0
DIS	0	0
DLA	0	0
DMA	0	0
DNA	1	1
NSA/CSS	0	0
CINCLANTCOM	0	0
CINCEUCOM	1	1
CINCPACOM	0	0
CINCREDCOM	0	0
CINCISO	0	0
CINCCENTCOM	0	0
USSPACECOM	0	0
<b>DoD Totals</b>	<b>22</b>	<b>21</b>

Item 10E (Optional)

**Other Information (Opinions) or Recommendations on  
Administering FOIA**

Of the 2,047 requests completed in the Office of the Secretary of Defense, the following table categorizes the requesters by percentage of total case load:

<u>Category</u>	<u>Percentage</u>
<b>Business Firms</b>	<b>16</b>
<b>Congress</b>	<b>1</b>
<b>Foreign</b>	<b>2</b>
<b>Individual</b>	<b>35</b>
<b>Law Firms</b>	<b>15</b>
<b>News Media</b>	<b>12</b>
<b>Research</b>	<b>4</b>
<b>Special Interest</b>	<b>13</b>
<b>Students</b>	<b>1</b>
<b>Other</b>	<b>1</b>
	<hr/>
	<b>100</b>

**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 in key positions and normal rotation of other personnel demand constant training/educational efforts. Components are directed, within their available resources, to conduct their own training/educational programs. The educational programs are to be targeted toward all members of the Component, developing a general understanding and appreciation of the DoD FOIA program, 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/OJCS**

Newly assigned personnel in the FOIA Program Director's Office routinely attend conferences sponsored by OPM and other organizations. Briefings, orientations, and staff visits between Component Agencies encourage the participation of FOI personnel to attend FOI conferences, symposia and seminars presented by Federal and private organizations. During April 1985, 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/OJCS Components.

**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. All individuals within the Army being assigned FOIA duties must enroll in the Army's FOIA correspondence course within 90 days of such assignment. The Judge Advocate General's School provides instruction relating to the Privacy Act/FOIA to the Judge Advocate General Corps personnel attending basic and graduate courses as well as continuing legal education sessions for military and civilian attorneys.

**DEPT NAVY**

A representative of the Chief of Naval Operations, in conjunction with a member of the Defense Privacy Board, conducted Privacy Act/FOIA training sessions at naval activities in California. Naval activities in the Washington, D.C. area attended seminars by the American Society of Access Professionals, OPM, and the Department of Justice. Several commands conducted FOIA training designed specifically to their needs. For example, the Navy Finance Center holds overviews and seminars for its disbursing officers and clerical people; and the Naval Military Justice School presents a one-hour Privacy Act/FOIA orientation.



**FOIA INSTRUCTIONAL AND EDUCATIONAL EFFORTS  
(Cont'd)**

- DEPT AF** Air Force has a 24-minute film designed to create an interest in and an understanding of the Freedom of Information Act. The film has received wide viewing throughout the Air Force and will continue to be viewed. Personnel attend FOIA Workshops sponsored by OPM and major air commands. The FOIA is the subject of briefings at various conferences throughout the Air Force.
- DCAA** FOIA personnel in regional offices, headquarters principal staff elements, and all field audit managers have access to Headquarters FOIA program managers for purposes of clarifying understanding of agency-wide policies and procedures. In addition, newly assigned Regional Records Management Officers and FOIA Coordinators are provided an eight-hour training and orientation briefing at DCAA Headquarters.
- DIA** A one-hour briefing aimed at increasing the understanding and procedures by which DIA meets FOIA requirements is presented to Agency personnel who are either directly or indirectly involved with the FOIA process.
- DIS** New agents receive formal instruction regarding the provisions of FOIA and its implementation by DIS. Headquarters personnel have received detailed on-the-job training and present training programs to other field and staff elements as needed. Extensive formal training has not been necessary due to the centralized organization of the FOIA mission in DIS.
- DLA** Headquarters and field elements attended several FOIA training programs which included seminars by the Department of Justice and DoD Legal Education Institute, the Annual Government Affairs Institute update symposium, and a workshop for administrative and secretarial personnel.
- DMA** DMA Aerospace Center conducted training classes as part of its in-house supervisors training course.
- DNA** FOIA briefings are presented to new personnel reporting for duty.
- NSA/CSS** Three FOIA officers and two others attended Department of Justice seminars. An FOIA seminar was conducted by NSA/CSS at Headquarters, Naval Security Group.