

Department of Defense
DIRECTIVE
AD-A272 032



May 13, 1988
NUMBER 5400.7

ASD(PA)

SUBJECT: DoD Freedom of Information Act Program

- References:
- (a) DoD Directive 5400.7, subject as above, March 24, 1980 (hereby canceled)
 - (b) Title 5, United States Code, Section 552, as amended
 - (c) DoD 5025.1-M, "Department of Defense Directives System Procedures," April, 1981, authorized by DoD Directive 5025.1, October 16, 1980
 - (d) DoD 5400.7-R, "DoD Freedom of Information Act Program," June 1987, authorized by this Directive
 - (e) through (h), see enclosure 1

A. REISSUANCE AND PURPOSE

1. This Directive:

- a. Reissues reference (a).
- b. Establishes policies and procedures for the implementation of the DoD Freedom of Information Act (FOIA) Program under reference (b).
- c. Delegates authorities and responsibilities for the effective administration of the program.

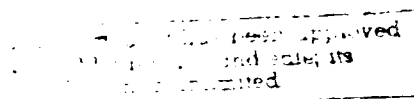
2. This Directive also authorizes, consistent with reference (c), the publication of reference (d), the single DoD regulation on the FOIA Program.

B. APPLICABILITY AND SCOPE

1. This Directive applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Organization of the Joint Chiefs of Staff (OJCS), the Unified Commands, the Defense Agencies, and the DoD Field Activities. For the purpose of this Directive, OSD, OJCS, the Unified Commands, and the DoD Field Activities are considered a single "DoD Component." The other DoD Components referred to herein are the Military Departments, Defense Communications Agency (DCA), Defense Contract Audit Agency (DCAA), Defense Intelligence Agency (DIA), Defense Investigative Service (DIS), Defense Logistics Agency (DLA), Defense Mapping Agency (DMA), Defense Nuclear Agency (DNA), and the National Security Agency/Central Security Service (NSA/CSS).

2. The NSA/CSS records are subject to this Directive unless the records are exempt under P.L. 86-36 (reference (e)).

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C. DEFINITIONS

The terms used in this Directive are defined in DoD 5400.7-R (reference (d)).

D. POLICY

It is DoD policy to:

1. Promote public trust by making the maximum amount of information available to the public on the operation and activities of the Department of Defense, consistent with DoD's responsibility to ensure national security.
2. Allow a requester to obtain records from the Department of Defense that are available through other public information services without invoking the FOIA.
3. Make available, under the procedures established by reference (d), those records that are requested by a member of the general public who cites the FOIA.
4. Answer promptly all other requests for information, records, objects, and articles under established procedures and practices.
5. Release records to the public unless those records are exempt from mandatory disclosure as outlined in Chapter III of reference (d).
6. Process requests by individuals for access to records about themselves under the "Privacy Act" procedures as implemented by DoD Directive 5400.11 (reference (f)), and procedures outlined in this Directive as amplified by reference (d).

E. RESPONSIBILITIES

1. The Assistant Secretary of Defense (Public Affairs) (ASD(PA)) shall:
 - a. Direct and administer the DoD FOIA Program to ensure compliance with policies and procedures that govern the administration of the program.
 - b. Issue a DoD FOIA regulation and other discretionary instructions and guidance to ensure timely and reasonably uniform implementation of the FOIA in the Department of Defense.
 - c. Internally administer the FOIA Program for the OSD, the OJCS and, as an exception to DoD Directive 5100.3 (reference (g)), the Unified Commands (the Specified Commands remain under the Military Departments for FOIA matters).
 - d. As the designee of the Secretary of Defense, serve as the sole appellate authority for appeals to decisions of respective Initial Denial Authorities identified in ASD(PA) supplementing instructions.
2. The General Counsel, Department of Defense (GC, DoD) shall provide uniformity in the legal interpretation of this Directive.

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3. The Heads of DoD Components shall:

a. Publish in the "FEDERAL REGISTER" any instructions necessary for the internal administration of this Directive within a DoD Component that are not prescribed by this Directive or by other issuances of the ASD(PA). For the guidance of the public, the information specified in 5 U.S.C. 552(a)(1) (reference (b)) shall be published in accordance with DoD Directive 5400.9 (reference (h)).

b. Conduct training on the provisions of this Directive and Section 552 of reference (b), as amended, for officials and employees who implement the FOIA.

c. Submit the reports prescribed in Chapter VII of DoD 5400.7-R (reference (d)).

d. Make available for public inspection and copying in an appropriate facility or facilities, in accordance with rules published in the "FEDERAL REGISTER," the records specified in Section 552(a)(2) of reference (b) unless such records are published and copies are offered for sale.

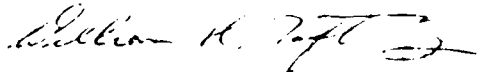
e. Maintain and make available for public inspection and copying current indices of these records.

F. INFORMATION REQUIREMENTS

The reporting requirements in Chapter VII of reference (d) have been assigned Report Control Symbol DD-PA(A)1365.

G. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward one copy of implementing documents to the Assistant Secretary of Defense (Public Affairs) within 120 days.



William H. Taft, IV
Deputy Secretary of Defense

Enclosure - 1
References

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REFERENCES, Continued

- (e) Public Law 86-36, "National Security Information Exemption"
- (f) DoD Directive 5400.11, "Department of Defense Privacy Program," June 9, 1982
- (g) DoD Directive 5100.3, "Support of the Headquarters of Unified, Specified and Subordinate Joint Commands," March 17, 1980
- (h) DoD Directive 5400.9, "Publication of Proposed and Adopted Regulations Affecting the Public," December 23, 1974

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