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PRIVACY, CIVIL LIBERTIES, AND TRANSPARENCY
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WASHINGTON, DC 20301-1155

December 23, 2024

MEMORANDUM FOR DOD FREEDOM OF INFORMATION ACT OFFICERS,
ATTORNEYS, PUBLIC LIAISONS, AND APPELLATE AUTHORITIES

SUBJECT: Guidance on Communication with FOIA Requesters

For more than fifty years, the Freedom of Information Act (FOIA), 5 U.S.C. § 552, has been a vital tool for ensuring transparency, accessibility, and accountability in government. The FOIA provides, not only the right of access to information maintained by any federal agency, but a mechanism for communicating and building trust with the public. With the administration of each FOIA request, DoD FOIA professionals demonstrate a daily commitment to communicating and working with FOIA requesters in a spirit of cooperation. As the Department of Defense's (DoD) Chief FOIA Officer, I want to reaffirm our continued commitment to transparency, open communication, and cooperation as part of our FOIA interaction with the public.

As the Department of Justice's 2022 Attorney General Guidelines on the FOIA stated, each agency should actively work with requesters to remove barriers to access and to help requesters understand the FOIA process and the nature and scope of the records the agency maintains. As FOIA professionals, we know that communication is essential when coordinating with a requester on an unclear or overly broad request, or when inquiring as to whether a requester is still interested in pursuing an open request. DoD Components must ensure prompt communication that is clear, concise, and helpful to the requester in making an informed decision. It is also essential to provide the requester with adequate time to respond when communication is necessary to clarify the scope of a request, gather the details needed to assist the agency in conducting the search, or determine if continued interest is still present in a request.

To that end, whenever possible, each DoD Requester Service Center should refrain from dismissing an unperfected request because of missing information. In the spirit of cooperation, DoD Components will assist FOIA requesters in perfecting their requests and allow a FOIA requester a minimum of 30 working days¹ to respond when (1) clarifying an unperfected request; (2) rescoping a request; (3) responding to a "still interested" request; or (4) requiring a response on other matters. Also, DoD Components should only send a "still interested" inquiry once during the lifecycle of a FOIA request unless there is good cause warranting an additional inquiry.

¹ This designated time complies with guidance established by the Department of Justice, Office of Information Policy. See Department of Justice, Office of Information Policy, "Limitations on Use of 'Still-Interested' Inquiries," updated July 23, 2021, <https://www.justice.gov/oip/limitations-use-still-interested-inquiries>. Additionally, "in the event a requester responds within a reasonable time after the allotted period, the requester should in no way be disadvantaged. Instead, the request should be reopened and put back in its place in the queue." *Id.*

As FOIA professionals, we have the opportunity to establish a positive relationship with the FOIA requester at initial contact and build trust through professional courtesy, clear and concise communication, and dedicated customer service. I want to thank you for your efforts in communicating with the public to remove barriers to access and to help requesters understand the FOIA process. These efforts will enhance a more transparent and responsive FOIA program and contribute to strengthening public confidence and trust in government and DoD operations.

Please direct any questions to Toni Fuentes, Director, Freedom of Information, at osd.mcalex.oatsd-pclt.mbx.foia-policy@mail.mil.

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