

DEPARTMENT OF DEFENSE



FREEDOM OF INFORMATION ACT PROGRAM CY 1987

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 1987 FREEDOM OF INFORMATION ACT ANNUAL REPORT HIGHLIGHTS

A total of 97,669 public requests for records under the Freedom of Information Act (FOIA) were processed during 1987 by the Department of Defense. This compared with an average annual case load of 81,162 for the years 1976-1986, the reporting period since the act was amended, and is roughly 20% above average. Five thousand six hundred fifty three case required time limit extensions - 226 for location, 3255 for volume, 2172 for consultation.

The Department of Defense initially granted approximately 75% of the requests. There were 7,483 requests denied on the basis of FOIA exemptions. Of these initially denied requests, 1 of 6 was because continued classification was warranted; 1 of 5 was because the record requested was a internal memorandum; 1 of 32 was because of statutory exemption; 1 of 5 was because the information requested was considered proprietary data; 1 of 5 was because the record requested involved investigatory data; and 1 of 4 was because information requested involved personal privacy. An additional 16,210 requests could not be filled 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 587 appeals of denied requests, 65 appeals were fully granted, 202 partially granted, and 315 again rejected.

Administrative costs associated with these requests were approximately \$13,440,155, somewhat more than the \$9,181,823 average for the 1976-1986 period. The average cost of processing a single case during 1987 was approximately \$140. Fee collections for records provided to the public amounted to \$642,941.

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**

<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 Frank C. Carlucci, III
Dept. Army	Secretary of the Army	Hon John O. Marsh, Jr.
Dept. Navy	Secretary of the Navy	Hon James H. Webb, Jr.
Dept. Air Force	Secretary of the Air Force	Hon Edward C. Aldridge, Jr.
DCA	Defense Communications Agency	LTG John T. Myers, USA
DCAA	Defense Contract Audit Agency	Mr. William H. Reed
DIA	Defense Intelligence Agency	LTG Leonard H. Perroots, USAF
DIS	Defense Investigative Service	Mr. Thomas J. O'Brien
DLA	Defense Logistics Agency	LTG Vincent M. Russo, USA
DMA	Defense Mapping Agency	MGEN Robert F. Durkin, USAF
DNA	Defense Nuclear Agency	VADM Jonn P. Parker, USN
NSA/CSS	National Security Agency Central Security Service	LTG William E. Odom, USA

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

Agency Abbreviation	Appellate Agency	Program Agency Head
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. Robert C. Ambrose, Acting Chief, Information Branch, HQUSAISC (AS-OPS-MRA)
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	Mrs. Anne Turner OPR for Freedom of Information Documentation Systems 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 Records Administrator
DIA	Mr. Gordon Negus Executive Director	Mr. Robert C. Hartzog FOIA Officer
DIS	Mr. Thomas J. O'Brien Director	Mr. Dale L. Hartig Chief, Information/Public Affairs
DLA	LTG Vincent M. Russo, USA Director	COL James J. Singsank, USA Staff Director, Administration
DMA	Mr. Edward Obloy General Counsel	Mr. Del Malkie Director, Public Affairs
DNA	VADM John P. Parker USN, Director	LTC Samuel D. McKinney, USA Public Affairs Officer
NSA/CSS	Mr. Charles R. Lord Deputy Director	Ms. Julia B. Wetzel Director of Policy

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Item 1

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

Total Demands			Reasons		
Reporting Activity	Completed Public Requests	Completed Reportable Requests*	Statutory Exemptions	+ Other	= Total
OSD/OJCS	2,562	4,420	428	1,377	1,805
DEPT ARMY	22,234	22,899	1,536	2,379	3,915
DEPT NAVY	28,636	33,203	1,727	5,803	7,530
DEPT AF	26,199	29,630	2,859	5,376	8,235
DCA	332	339	22	3	25
DCAA	297	510	74	209	283
DIA	1,288	1,752	334	171	505
DIS	337	318	38	13	51
DLA	15,038	16,038	173	629	802
DMA	147	149	17	40	57
DNA	155	165	47	58	105
NSA/CSS	444	451	228	152	380
DoD Totals	97,669	109,874	7,483	16,210	23,693

* 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	227	34	9	37	147	84	0	0	0	538
DEPT ARMY	275	501	10	175	412	611	383	0	0	2368
DEPT NAVY	162	114	69	276	433	752	404	0	0	2210
DEPT AF	220	760	110	834	894	508	646	0	0	3972
DCA	12	1	0	12	5	2	0	0	0	32
DCAA	0	20	0	24	25	2	3	0	0	74
DIA	240	21	22	13	4	32	2	0	0	334
DIS	0	13	0	4	8	23	10	0	0	58
DLA	2	6	0	95	56	22	4	0	0	185
DMA	1	0	0	6	8	8	0	0	0	23
DNA	21	2	12	6	6	0	0	0	0	47
DoD Totals	1160	1472	232	1482	1998	2044	1452	0	0	9841
Percent of Total	11%	14%	4%	15%	20%	20%	15%	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/JCS	ARMY	NAVY	AIR FORCE	DLA	DNA	NSA	
10 USC 130			14	81		4		99
10 USC 140(c), as as added by Public Law 98-94, Section 1217		8						8
10 USC 618 (f)	1							1
10 USC 1102		1	4	10				15
18 USC 798	1		29	2			49	81
21 USC 1175				1				1
42 USC 2162	4		21	10		8		43
42 USC 4582				1				1
50 USC 403(d)(3)				3	22		77	102
50 USC 402 note, Section 6, Public Law 86-36	1	1	1	2			166	171
50 USC 2411	2							2
Agency Totals	9	10	69	110	22	12	292	524

*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	6	
OSD/OJCS	653	446	112	97	74	4	1,386
DEPT ARMY	732	704	215	165	175	94	2,085
DEPT NAVY	2679	1251	374	514	1285	143	6,246
DEPT AF	785	2732	419	682	551	207	5,376
DCA	0	1	1	0	1	0	3
DCAA	39	9	5	2	159	0	214
DIA	7	154	2	7	1	0	171
DIS	0	13	0	0	0	0	13
DLA	170	239	88	56	71	5	629
DMA	15	11	0	2	7	5	40
DNA	20	22	4	2	8	2	58
NSA/CSS	6	75	0	66	5	0	152
DoD Totals	5106	5657	1220	1593	2337	463	16,373

***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

**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	128	7	2	2	6	0	2	19
DEPT ARMY	78	13	7	7	7	7	7	48
DEPT NAVY	315	17	24	14	16	22	7	100
DEPT AF	132	18	22	17	18	20	22	117
DCA	1	0	0	0	0	1	0	1
DCAA	7	1	2	1	0	0	1	5
DIA	1	0	2	0	0	0	2	4
DIS	1	0	0	0	0	0	1	1
DLA	44	6	8	3	2	7	0	26
DMA	13	2	0	0	0	1	0	3
DNA	1	0	0	0	1	0	1	2
NSA/CSS	1	0	0	0	0	0	1	1
DoD Totals	722	64	67	44	50	58	44	327

*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	5	5	4	3	3	1	21
DEPT ARMY	13	6	2	4	4	3	32
DEPT NAVY	9	15	11	10	20	15	80
DEPT AF	0	2	2	1	4	17	26
DCA	0	1	0	0	0	0	1
DCAA	0	0	0	1	5	1	7
DIA	0	0	0	0	0	1	1
DIS	0	0	0	0	1	0	1
DLA	1	1	2	3	5	7	19
DMA	3	1	0	1	2	0	7
DNA	0	0	0	0	2	0	2
NSA/CSS	0	0	0	0	0	1	1
DoD Totals	31	31	21	23	46	46	198

*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	10	11	16	37
DEPT ARMY	0	2	12	14
DEPT NAVY	24	136	77	237
DEPT AF	18	24	161	203
DCA	0	0	1	1
DCAA	3	4	2	9
DIA	0	15	26	41
DIS	0	0	0	0
DLA	10	6	7	23
DMA	0	0	2	2
DNA	0	7	2	9
NSA/CSS	0	2	9	11
DoD Totals	65	207	315	587

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	4	6	2	1	0	0	0	0	0	13
DEPT ARMY	0	5	2	0	9	10	5	0	0	31
DEPT NAVY	39	14	2	9	56	1	0	0	0	121
DEPT AF	29	78	13	38	112	29	27	0	0	326
DCA	1	0	0	0	0	0	0	0	0	1
DCAA	0	3	0	3	3	1	0	0	0	10
DIA	40	1	1	0	0	4	0	0	0	46
DIS	0	0	0	0	0	0	0	0	0	0
DLA	0	0	1	10	1	1	1	0	0	14
DMA	1	0	0	0	1	1	0	0	0	3
DNA	6	0	3	2	5	0	0	0	0	16
NSA/CSS	9	0	9	1	0	0	0	0	0	19
DoD Totals	129	107	33	64	187	47	33	0	0	600
Percent of Total	22%	19%	2%	12%	32%	11%	2%	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	DLA	
10 USC 130	2	3	13					18
10 USC 1102		3						3
18 USC 798				7				7
42 USC 2162		2			3			5
50 USC 402 note, Section 6, Public Law 86-36				7				7
50 USC (d)(3) Rule 6(e), Federal Rules of Criminal Procedure				7		1	1	8
Agency Totals	2	8	13	21	3	1	1	49

*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	6	
OSD/OJCS	19	0	0	2	8	5	34
DEPT ARMY	0	5	2	0	9	10	26
DEPT NAVY	36	17	8	10	59	51	181
DEPT AF	29	78	13	38	112	29	299
DCA	1	0	0	0	0	0	1
DCAA	0	3	0	3	3	0	9
DIA	40	1	1	0	0	4	46
DIS	0	0	0	0	0	0	0
DLA	0	0	1	10	1	1	13
DMA	1	0	0	0	1	1	3
DNA	6	0	3	2	5	0	16
NSA/CSS	9	0	9	1	0	0	19
DoD Totals	141	104	37	66	198	101	647

***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/OJCS			
Robert B. Sims	Assistant Secretary of Defense (Public Affairs)	20	5
Fred S. Hoffman	Principal Deputy Assistant Secretary Defense (Public Affairs)	12	0
William M. McDonald	Director, Freedom of Information and Security Review	0	4
DEPARTMENT ARMY			
Thomas Kranz	Principal Deputy General Counsel	10	0
Darrell Peck	Deputy General Counsel	9	0
COL Larry L. Tech, USA	Director Joint Staff	1	0
LTC Cragin Shelton, USAF	Acting Chief, Admin Sys & Svcs, National Guard Bureau	1	0
Anthony H. Gamba	Deputy General Counsel	3	0
DEPARTMENT NAVY			
RADM E.D. Stumbaugh, USN	Acting JAG	55	3
RADM H.D. Campbell, USN	Judge Advocate General (JAG)	5	0
RADM R.L. Slater, USN	Acting JAG	32	2
CAPT J.L. Hoffman, USN	Acting JAG	71	3
CAPT C.H. Mitchell, USN	Deputy JAG (Litigation)	2	0
CDR A.R. Philpott, USN	Deputy Assistant JAG (Litigation General)	0	30
CAPT R.C. Berkley, USN	Deputy Assistant JAG (DAJAG) General Litigation	0	7
CDR S.A. Banks, USN	Deputy DAJAG	0	3
CDR R.W. Scholz, USN	Acting DAJAG	0	5
LTCOL K.T. Sefton, USMC	Acting DAJAG	0	1
W.T. Skallerup, Jr., SES	General Counsel	37	53
Mr. O'Neill, SES	Acting General Counsel	2	1
J.J. Wilcox, SES	Acting General Counsel	7	9
F.A. Phelps	Acting General Counsel	2	4
AIR FORCE			
Steven A. Thompson	Deputy Admin Assistant	203	0
DCA			
RADM T.R.M. Emery, USN	Vice Director	1	0

Item 6

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

Name	Title	No. of Instances of Participation	
		Exemption	Other
DCAA			
John van Santen	Assistant Director, Resources	10	0
DIA			
RADM R.W. Schmidt, USN	Deputy Director	30	0
Gordon Negus	Executive Director	10	0
Lewis Prombain	Acting Executive Director	1	0
DIS			
DALE L. Hartig	Chief, Office of Information and Public Affairs	0	0
DLA			
LTG V.M. Russo, USA	Director, Defense Logistics Agency	7	0
RADM D.W. McKinnon, USN	Deputy Director (Acquisition Management)	5	1
MG S.R. Musser, USA	Deputy Director	1	0
DMA			
Edward J. Obloy, ES-4	General Counsel	2	0
DNA			
VADM J.T. Parker, USN	Director	11	0
RADM T.A. Almstedt, Jr., USN	DFOP	2	0
LtGen J.L. Pickitt, USAF	DIR	1	0
Marvin C. Atkins	DDIR	2	0
NSA/CSS			
C.R. Lord	Deputy Director	10	0
MG Thomas J. Flynn	Chief of Staff	1	0

COURT OPINIONS AND ACTIONS TAKEN

OSD/OJCS

Washington Post vs DoD, Civil No. 84-2949 (D.D.C.). Plaintiff's request for a classified report concerning El Salvador was denied pursuant to 5 USC 552(b)(1) and 552(b)(5). After a detailed Vaughn Index was provided, the court granted defendant's motion for summary judgment on 25 February 1987.

Wynn vs United States of America et al, Civil No. 87-0571 (D.D.C.). Plaintiff brought suit after being informed that defendant had no records pertaining to alleged "harassment, bugging, and mind control" of plaintiff for last 18 years. Government motion for summary judgment granted on 12 March 1987.

Belair vs DoD, Civil No. 87-0469 (D.D.C.) Plaintiff requested records concerning illegal export of helicopters to North Korea. Records were denied pursuant to 5 USC 552(b)(1) and 552(b)(5). Plaintiff's request for voluntary dismissal without prejudice was accepted by the court on July 1987.

Pasha Publications Inc. vs DoD, Civil No. 86-3168 (D.D.C.). Plaintiff requested records concerning research programs of the Strategic Defense Initiative Organization. Unclassified records were provided to the plaintiff that were believed to be responsive to his request. Plaintiff appealed that released documents were not responsive and the defendant ruled the appeal moot as documents were considered responsive. Plaintiff filed instant litigation, during which time defendant realized a misunderstanding had occurred over responsiveness. The responsive documents were subsequently released in redacted form pursuant to 5 USC 552(b)(1) and the case was dismissed with prejudice on 23 September 1987.

McTigue vs DoD, Civil No 86-2236 (D.D.C.). Plaintiff's request for a classified memorandum from Mr. Richard Perle, ASD(ISP), to Major General James Plautz (DIA), was denied in part pursuant to 5 USC 552(b)(1) and 552(b)(5). Case was dismissed with prejudice on 27 April 1987.

Overseas Education Association vs DoD, Civil No. 87-2721 (D.D.C.). Plaintiff's request for home address of the Department of Defense Dependents Schools' recruits denied pursuant to 5 USC 552(b)(6). During litigation, parties agreed that on a one-time basis, the Department of Defense Dependents Schools would mail information concerning plaintiff's collective bargaining responsibilities to the Department of Defense Dependents Schools' recruits. Case dismissed with prejudice on 4 March 1987.

Cox vs. DoD, State, Commerce, and Agriculture, Civil No. 85-3628 (D.D.C.). Plaintiff filed an FOIA request for documents regarding the Coordinating Committee for Export Controls. The Department of Defense replied with a 'no record' determination and referred the request to the Department of State. On 12 October 1985, plaintiff filed instant litigation for this 'no record' determination. On 25 April 1986, plaintiff filed a praecipe voluntarily dismissing the suit against the Department of Defense. Case dismissed with prejudice on 2 July 1987.

NAVY

Newport Aeronautical Sales v. Department of the Navy, D.D.C. No. 86-3409, filed 11 December 1986. Plaintiff brought suit alleging improper denials of FOIA requests by the Naval Sea Systems Command (NAVSEA). Plaintiff contends technical manuals were not properly classified and were improperly withheld under Exemption (b)(3) as they are not subject to withholding under 10 U.S.C. 140c, the Technical Data Act. Case presently held in abeyance.

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 29 October 1987, the Court ordered NAVSEA to process certain documents according to a 90 day schedule. In addition, within 90 days of date of order the parties shall apply to the Court to set a status conference to deal with the remainder of responsive NAVSEA records.

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 withholding the report. Plaintiff filed motion for reconsideration. Defendant did not oppose motion. Decision pending.

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 on 18 December 1987. The case is decisional.

Lind v. Department of the Navy, No. 80-0338 (D. HI.). Plaintiffs, representatives of various public interest groups, seeks 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 \$15,000.00 was granted on 20 January 1987. The Government will seek an appeal.

Badhwar v. United States Air Force, et. al., Civil No. 84-0154 (D.D.C.). Case involves a Freedom of Information Act request by associates of columnist Jack Anderson, who seek a large quantity of a Mishap Investigation Report (MIR) related to information from the military services. At issue is the obligation to release three particular portions of the MIR: (1) statements of witnesses, (2) findings, conclusions, and recommendations, and (3) segregable factual material from documents found to be otherwise exempt. Cross motions for summary judgment were filed. The court held that findings, recommendations, conclusions, confidential witness statements and facts derived from confidential witness statements are exempt under b(5). The judge ordered the release of all other factual information. The Vice Chief of Naval Operations ordered no Navy appeal. The plaintiffs appealed. The Navy response was filed on 3 October 1986. The argument was held on 23 February 1987, and the court awarded plaintiff \$30,000.00 in attorney fees.

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 filed 27 October 1986, contending that only documents promulgated concerning subject matters under the JAG's specific cognizance can be subject to FOIA (a)(1) or (a)(2). Of those categories of documents, most opinions are predecisional, internal, and advisory, having no precedential or authoritative value. Cognizant JAG divisions have reviewed their documents to extract those that are subject to the provision. The motion was denied on 8 June 1987.

Limited discovery was held in September 1987 of 180 select opinions. Depositions were held in November of RADM Flynn, former Judge Advocate General, and four others. Plaintiff appears ready to seek summary judgment against both Army and Navy, although no depositions were taken of any Army personnel.

Todd Shipyards Corporation v. Defense Contract Audit Agency and Naval Sea Systems Command, C.A. No. 87-2401TJH, filed 31 August 1987. Plaintiff brought suit requesting the Court to order the defendants to make 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. Motion is pending.

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. NAVSEA is processing the data requested and will provide releasable drawings by 15 February 1988. Status call scheduled for 17 February 1988.

Teresa Falcone v. John Lehman, D. Mass 85-3264WD. Plaintiff filed suit after receiving a "no record" response to her request. The Judge consolidated the tort claim and FOIA case. The documents subject to the FOIA suit were released through discovery in the tort claim. FOIA case is closed.

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, i.e., Navy never received an FOIA request; plaintiff knew the correct address for his FOIA request; and, the address the plaintiff alleges he sent the request was improper. Plaintiff submitted a new request to the appropriate address, documents were released, and the Navy filed Motion to Dismiss. Pending.

Blake Construction Co., Inc. v. United States, et al., D.D.C. Civil Action No. 87-0888 JGP, filed 7 May 1987. Plaintiff filed complaint asking the Court to order the Navy to release documents or render a decision on its FOIA requests. Case dismissed on 30 June 1987.

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.

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.

Offutt v. Department of the Navy, Civil Action N. R86-796 (D. Md.). Plaintiff sought an injunction directing the Navy to cease withholding portions of a Personal Injury/Death Report regarding a fatal accident at David W. Taylor Naval Ship R&D Center, (i.e., the accident investigator's assessment of cause factors, discussion of possible case factors, and recommendations to prevent future accidents). Access was denied under exemption (b)(5), since disclosure would reveal the deliberative process of the investigator. Motion for summary judgment was granted on 26 March 1987.

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 a 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.

Paul Goldstein v. Office of Independent Counsel, et al., Civil No. 87-2028 (D.D.C.). The case involves Lyndon LaRouche. The plaintiff filed action on 12 August 1987, seeking expedited treatment. The Naval Security and Investigative Command responded to the FOIA request on 4 August 1987, advising that they had no records responsive to the request. The Department of Justice filed a motion to dismiss the expedited treatment. No action is required by the Navy.

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 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 were involved.

Pototsky v. BGEN Cates, Department of the Navy, Civil No. 87-0833 (D. Hi.). 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).

AIR FORCE

Christiana E. Hayden v. United States Air Force, NGB, USDS Ed VA, Civil No. 87-0630 Plaintiff, having received all records to which she is entitled in this case, hereby stipulates to a dismissal of this action, pursuant to Rule 41(a)(1), Federal Rules of Civil Procedure, with prejudice and without costs. Dismissed 27 Oct 87.

Heckman v. Executive Branch, USDC Ed Ny Civil No 86-0132. Plaintiff sought relief under the United States Constitution and a variety of statutes. Suit contained a demand for 5 million dollars against the Executive Branch of the United States Government and nine federal agencies, the Smithsonian Institution, the National Science Foundation and the President of the United States. District Court dismissed plaintiffs complaint concluding that he had failed adequately to allege entitlement to relief under any of the statutory and case law cited in his moving papers. We affirm substantially for the reasons stated by Judge Platt in his thorough opinion of 29 Jan 87. The order of the district court is affirmed.

Judith Kyle v. The USA, FAA, ANG and USAF USDC WD NY Civil No. 80-1038E. This negligence action as commenced sought monetary damages in connection with the crash of an Air National Guard F-101 Voodoo Airplane. Plaintiff's motion for summary judgment was granted.

No Gwen Alliance of Eugene v. USAF, USDC OR Civil No. 86-6240. Based upon the stipulation of the parties, judgment is hereby entered dismissing this matter with prejudice and without costs to either party.

Pacific Sky Supply, Inc. v. USAF, USDC DC Civil No. 86-1305. Plaintiff, through its attorneys withdrew its motion for attorney fees and expenses filed with the court on 5 Nov 86. Plaintiff has determined that it will not pursue recovery of its attorney fees and expenses in this case.

NSA/CSS

Johnson v. NSA, DDC Judge dismissed the case with prejudice on 29 Jun 87. Plaintiff filed a motion for rehearing on 9 Jul 87. Case pending.

ITEM 8
FOIA IMPLEMENTATION RULES OR REGULATIONS

AGENCY	DOCUMENT IDENTIFICATION	CFR REF.
OSD/OJCS	DoD Regulations 5400.7-R dtd June 1987	32 FR 286 Vol 52 No 132 dtd 10 Jul 87 page 25976
DEPT ARMY	AR 340-17, 1 Oct 82	Pending Revision 32 CFR 518 1 Jul 80
DEPT NAVY	SECNAVINST 5720.42C, 1 Oct 82	Pending Revision 32 CFR 701 1 Jul 80
DEPT AF	AFR 12-30, 15 Dec 82	Pending Revision 48 CFR No. 69 8 Apr 83
DCA	DCA Instruction 210-225-1, 19 Dec 80	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 Reg 12-39, 24 Aug 81	Pending Revision 32 CFR 292 1 Jul 85
DIS	DIS Reg 01-12, 2 Oct 81	Pending Revision 32 CFR 298 1 Jul 85
DLA	DLA Reg 5400.14, 2 Feb 81	Pending Revision 32 CFR 1285 6 Apr 87
DMA	DMA Instruction 5400.7, March 1988	32 CFR 295 Vol 53 No 45, 8 Mar 88
DNA	DNA Instruction 5400.7B, 24 Nov 87	32 CFR 291 Vol 53 No 56, 23 Mar 88
NSA/CSS	NSA/CSS Reg 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 20 through 28 reprinted from Chapter 6, DoD Regulation 5400.7-R, June 1987, establishes standard costs collectible by Department of Defense Agencies.

\$642,941.60 was collected from the public for making records available during the year 1987 (see item 10B, Page 30, 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 or 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, if

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 (Minimum Charge)	E9/GS8 and below	13.25 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 (Minimum Charge)	E9/GS8 and below	13.25 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 image	.10
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 10A

**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/OJCS	\$ 512,732.40	\$ 4,257.78
ARMY	3,507,635.20	112,844.68
NAVY	3,963,974.74	200,826.16
AIR FORCE	3,952,278.00	168,246.00
DCA	50,391.55	1,567.35
DCAA	50,176.00	4,284.00
DIA	246,902.00	445.00
DIS	10,846.60	485.00
DLA	982,994.31	147,379.38
DMA	22,724.54	290.85
DNA	46,031.91	322.40
NSA/CSS	340,387.00	1,993.00
DoD Totals	\$13,440,155.25	\$642,941.60

*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 page 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 Manyears*	8.66	136.43	98.89	91.13	.75	.33	4.5
B. Manyear Costs (Grades Considered)	\$378,146.00	\$2,108,772.80	\$2,433,870.69	\$2,143,522.00	\$32,500.00	\$33,668.00	\$147,390.00
C. Estimated Manhour Costs by Category (Fee Schedule Rates)**							
(1) Search Time	14,775.35	137,967.27	219,463.59	145,955.00	1,115.00	2,547.00	3,762.00
(2) Review & Excising	25,411.43	100,646.83	51,700.83	198,134.00	2,549.00	0	19,448.00
(3) Coordination & Approval	11,992.46	53,226.39	85,445.52	192,755.00	500.00	0	6,689.00
(4) Correspondence/Forms Preparation	2,165.03	75,507.81	63,650.11	125,116.00	566.00	0	3,165.00
(5) Other Activities	12,641.05	65,465.16	25,802.97	56,754.00	153.00	0	883.00
MANHOUR COST TOTAL							
D. Total IB and IC	66,985.32	2,541,586.00	446,063.02	717,714.00	4,883.00	2,547.00	33,947.00
E. Overhead (Computed at 25%)	16,745.33	635,396.50	719,983.30	715,309.00	8,346.00	10,538.00	45,334.00
F. Total Personnel Costs	461,877.65	3,176,982.50	3,599,917.01	3,576,545.00	46,729.00	46,748.00	226,671.00
II. Other Case-Related Costs							
A. Computer Search Time	37,693.45	106,018.33	56,097.36	64,284.00	150.00	0	11,725.00
B. Reproduction	6,607.48	130,931.91	166,392.56	127,812.00	3,509.00	349.00	6,296.00
C. Microfiche Reproduction	95.75	12,590.73	1,777.89	16,155.00	3.50	0	115.00
D. Printed Records	86.28	3,966.69	13,620.53	4,271.00	0	0	95.00
E. Total of Other Case-Related Costs	44,482.95	253,507.66	237,888.34	212,522.00	3,662.55	349.00	18,231.00
III. Reporting/Other Costs							
A. Reporting Costs							
(1) Operational	730.00	42,031.18	20,417.59	24,549.00	0	636.00	180.00
(2) User	2,960.00	1,475.32	3,465.96	0	0	2,443.00	0
(3) Overhead (Computed at 25%)	922.50	10,876.63	5,970.89	6,137.00	0	0	450.00
B. Other Operating Costs (Voluntary Reporting of items such as postage, travel, computer, etc.)	1,759.30	22,761.97	43,282.97	121,945.00	0	0	0
C. Total Reporting/Other Costs	6,371.80	77,145.10	79,137.41	152,631.00	0	0	2,250.00
IV. Summary							
A. Total Costs, Sections I thru III	512,732.40	3,507,635.20	3,963,974.74	3,952,278.00	50,391.55	50,176.00	246,902.00
B. Amount Collected from the Public	4,257.78	112,844.68	200,926.16	168,246.00	1,567.35	8568.00	445.00

*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	DIS	DLA	DMA	DNA	NSA/CSS
I. Personnel Costs					
A. Estimated Manyears*	0	20.1	.2	1	4.6
B. Manyear Costs (Grades Considered)	0	\$395,694.96	\$10,660.00	\$25,815.00	\$160,038.00
C. Estimated Manhour Costs by Category (Fee Schedule Rates)**					
(1) Search Time	1,040.00	87,792.88	1,539.80	1,397.50	54,057.00
(2) Review & Excising	1,105.00	61,912.05	812.00	4,080.25	33,290.00
(3) Coordination & Approval	1,690.00	33,691.48	1,789.75	3,266.12	0
(4) Correspondence/Forms Preparation	850.00	19,603.91	1,038.80	642.00	468.00
(5) Other Activities	2,957.50	24,319.10	1,154.40	758.20	0
MANHOUR COST TOTAL					
D. Total IB and IC	7,842.50	226,319.42	6,334.85	10,144.07	87,815.00
E. Overhead (Computed at 25%)	0	155,503.59	4,233.71	8,989.77	21,954.00
F. Total Personnel Costs	0	777,517.97	21,168.56	44,948.84	269,807.00
II. Other Case-Related Costs					
A. Computer Search Time	265.77	89,215.34	19.00	0	68,775.00
B. Reproduction	30.00	22,874.62	367.60	1,082.08	1,805.00
C. Microfiche Reproduction	0	55,823.50	4.05	0	0
D. Printed Records	347.67	1,748.60	3.32	.99	0
E. Total of Other Case-Related Costs	643.44	169,662.06	393.97	1,083.07	70,580.00
III. Reporting/Other Costs					
A. Reporting Costs					
(1) Operational	320.00	8,108.01	174.61	0	0
(2) User	0	13,643.74	55.00	0	0
(3) Overhead (Computed at 25%)	80.00	5,437.93	57.40	0	0
B. Other Operating Costs (Voluntary Reporting of items such as postage, travel, computer, etc.)	0	1,748.60	875.00	0	0
C. Total Reporting/Other Costs	400.00	28,938.28	1,162.11	0	0
IV. Summary					
A. Total Costs, Sections I thru III	0	982,994.31	22,724.54	46,031.91	340,387.00
B. Amount Collected from the Public	485.00	147,379.38	290.85	322.40	1,993.00

*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 Unusual Circumstances			II & III Court Involvement	Total
	Location	Volume	Consultation		
OSD/OJCS	65	27	1741	0	1833
DEPT ARMY	0	0	0	0	0
DEPT NAVY	41	1877	71	0	1989
DEPT AF	52	837	237	0	1126
DCA	5	52	32	0	89
DCAA	3	9	3	0	15
DIA	0	0	0	0	0
DIS	0	0	0	0	0
DLA	56	36	78	0	170
DMA	4	12	0	0	16
DNA	0	0	0	0	0
NSA/CSS	0	405	10	0	415
DoD Totals	226	3255	2172	0	5653

Item 10 D

Internal Memoranda
(Including Directives not Published in Federal Register)

Reporting Activity	No. of Memoranda	No. Available to Public
OSD/OJCS	1	1
DEPT ARMY	2	2
DEPT NAVY	0	0
DEPT AF	0	0
DCA	0	0
DCAA	0	0
DIA	0	0
DIS	0	0
DLA	0	0
DMA	1	1
DNA	0	0
NSA/CSS	0	0
DoD Totals	4	4

Item 10E (Optional)

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

Of the 2209 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>
Business Firms	15
Congress	1
Foreign	1
Individual	38
Law Firms	14
News Media	8
Research	2
Special Interest	17
Students	1
Other	3
	<hr/>
	100

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 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 June 1987, 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. The FOIA training sessions were attended by Army FOIA personnel as follows: Department of Justice, 8 hours, 2 Oct 87; Department of Justice, 16 hours, 26 May 87; and Access Professionals, 16 hours, 17-18 Sep 87.

DEPT NAVY

A representative from OP-09B30, in conjunction with a member of the Defense Privacy Board, conducted PA/FOIA training sessions during the year at naval activities in Seattle, Washington and for commands in the Washington, DC area. Naval activities in the Washington, DC area report attendance at FOIA training seminars sponsored by the Chief of Naval Operations, American Society for Access Professionals, Government Affairs Institute, Office of Personnel Management, and the Department of Justice. Several naval commands have conducted FOIA training designed specifically to their needs. For example, the Naval Security and Investigative Command conducts periodic training for students attending the NIS Special Agent School; the Navy Finance Center conducts periodic FOIA overviews/seminars for its disbursing officers and clerical personnel; and the Naval Military Justice School periodically presents a one-hour orientation on PA/FOIA. Additionally, many naval activities are including PA/FOIA training for new employees in indoctrination classes and through supervisor training classes.

DEPT AF

"A Manager's Guide to FOIA" was prepared and sent to FOIA managers throughout the Air Force. Two major commands published orientation booklets on FOIA and distributed them within their commands. HQ Military Airlift Command and HQ AF Communications Command Records Management Staffs at Scott AFB, IL, in December 1987, and 20 Military Airlift Command base records managers were briefed on FOIA Reform Act of 1986 and fees. Personnel have attended and conducted training workshops and seminars on FOI throughout the year. Those seminars attended include training given by Justice, GSA, OPM, Agriculture, and the American Society of Access Professionals.

Item 11
FOIA INSTRUCTIONAL AND EDUCATIONAL EFFORTS
(Cont'd)

DCAA

Responsible individuals in all regional offices and Headquarters principal staff elements have access to Headquarters FOIA program manager for purposes of clarifying/understanding Agency-wide policies and procedures, obtaining additional guidance, as well as discussing real or hypothetical situations for purposes of expanding knowledge. In addition, all field audit managers have access to responsible individuals in regional offices and Headquarters FOIA program manager for purposes of clarifying/understanding Headquarters policy and procedures, obtaining additional guidance, as well as discussing real or hypothetical situations for purposes of expanding knowledge. Field Audit Offices visited by Regional FOIA Officers to discuss the requirements of the FOIA with the FAO Managers, FAO FOIA Monitors, and key office personnel.

DCA

FOIA Manager and assistant are available to the staff daily for constant FOIA update and guidance. A sixteen hour training session by Department of Justice was attended in January 1987, by members of the DCA staff.

DIA

The briefing and training of new coordinators and analysts directly involved in administering actions connected with the FOIA is accomplished on an "as requested" basis.

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. Four separate courses, consisting of nineteen hours were attended by DIS personnel.

DLA

Headquarters and field elements attended numerous training programs which included seminars by the Department of Justice, DoD Legal Education Institute, USDA Graduate School, American Society for Access Professionals, and the Defense Logistics Agency. A total of nine FOIA courses were attended by DLA personnel.

DMA

DMA personnel attended four seminars in FOIA conducted by the Department of Justice and the Office of Personnel Management.

DNA

FOIA briefings are held annually for DNA personnel involved in FOIA requests. Additionally, a FOIA briefing is given to new personnel.

NSA/CSS

An FOIA/PA seminar was held by NSA/CSS to update the Agency focal points on the requirements of the laws. In addition, NSA/CSS case workers and an attorney attended two Department of Justice training sessions.