



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF NATIONAL DRUG CONTROL POLICY
Washington, D.C. 20503

April 18, 2012

MEMORANDUM TO ALL ONDCP STAFF

FROM: REGINA LABELLE
CHIEF OF STAFF

SUBJECT: ONDCP Freedom of Information Act (FOIA) Policy

Authority

5 U.S.C. 552

Purpose

The FOIA is a legal process that provides public access to information from the Federal Government.

Guidance

The ONDCP FOIA webpage provides FOIA Requesters with the guidance necessary to submit and track a FOIA request. This document describes the internal guidance for receiving, processing, completing, and reporting the FOIA requests submitted to ONDCP.

Receipt of FOIA

ONDCP accepts FOIA requests and FOIA referrals that are addressed either to the General Counsel or marked as FOIA via fax at (202) 395-5543 or by post to 750 17th Street, N.W. Washington D.C. 20503.

A. Logging the Request

The ONDCP FOIA Liaison maintains the FOIA log, which is viewable on a shared computer drive by all ONDCP employees who have an official need to know. The ONDCP FOIA Liaison assigns to each FOIA request a tracking number, registers the due date, and maintains a log which includes the name of the requester, the substance of the request, and the date received. The ONDCP FOIA Liaison tracks all FOIA requests from receipt to completion.

B. Procedural Acceptance or Rejection

FOIA requests must reasonably describe the records sought. As an initial process, OLC notifies the Requester whether the FOIA request has been accepted or rejected. Notification of the acceptance or rejection must be sent to the Requester within at least 10 days for expedited requests, and 20 days for all others. OLC may also resolve procedural questions such as motions for fee-waivers and expedited handling.

Where OLC rejects a FOIA request on procedural ground, OLC will so inform the Requester and provide the Requester an opportunity for correcting the procedural defect.

C. Notice

OLC will insert a notice of each new FOIA request in the ONDCP Cabinet Affairs report. The Cabinet Affairs report will indicate each FOIA received during the preceding week to include the date of receipt, the name of the Requester, and a description of the records sought.

The ONDCP FOIA Liaison will e-mail a courtesy copy of each FOIA request to component heads, the Deputy Chief of Staff, and the Chief of Staff. OLC will separately ask the ONDCP components that it determines are most likely to have responsive records to locate, copy, and redact those records. Component heads must notify OLC if their component has records responsive to the request but had not been so identified by OLC.

Processing the Request

Each ONDCP component head alerted by OLC that it may have records responsive to a FOIA request must attempt to fully complete the request within 8 working days for expedited requests, and within 18 working days for all other requests. OLC will inform the component where a request falls under the expedited process. Completing the request requires the component to locate, copy, recommend redactions to responsive records, and turn-in a redacted copy and an un-redacted (if any) copy to OLC.

A. Locating records

Each component must locate its records that are responsive to the request. OLC should be immediately consulted where a component head believes the FOIA request does not reasonably describe the records sought, or the request is insufficient, ambiguous, unclear, or otherwise problematic.

B. Copying records

The component shall make two copies of the records located in response to the request.

C. Redactions

The respective component shall provide OLC with two distinct copies of the records located in response to the FOIA request. One copy shall have no redactions. The other copy shall have recommended redactions (if applicable). Redactions should not be recommended unless the component can indicate which FOIA exemption applies *and* the component can articulate the harm that will come to the government if the material is released to the public. Each redaction should be accompanied by a written reference in the margin indicating which FOIA exemption applies.

Completing the Request

After reviewing the recommended FOIA response, OLC will develop and transmit the final version of the response to the Requester. For routine requests, ONDCP will attempt to fully complete the request within 10 days for expedited requests and 20 days for all others. For more complex requests, ONDCP will endeavor to complete the request as soon as practicable. OLC will maintain a record of the completed files to include the respective correspondence as well as a redacted and an un-redacted (if applicable) copy of the response.

A. OLC review

OLC reviews the redactions recommended by the component. Where OLC questions the defensibility of a recommended redaction, it will work with the respective component to develop a solution. OLC makes the final determination where a compromise cannot be reached.

B. Transmitting the response

OLC forwards the records with redactions (if any) to the Requester, and an additional copy to the ONDCP Chief of Staff and Deputy Chief of Staff. OLC also inserts a notice in the Cabinet Affairs report of each FOIA response transmitted to the Requester. The cabinet report will indicate each FOIA request that was completed during the preceding week to include the name of the Requester, a description of the records transmitted, and any exemptions applied.

C. Maintaining the response

OLC shall electronically maintain a chronological file of all completed FOIAs. The electronic chronological file must contain a copy of the request, an un-redacted copy of the records, an exact copy of the records transmitted to the Requester, and any other correspondence or written communication with the Requester.

D. Appeals

Where a FOIA Requester appeals from a procedural or substantive decision of the FOIA Officer, the FOIA Officer will attempt to negotiate a settlement. Where a settlement is not reached, the ONDCP General Counsel will prepare the agency's final decision. A Requester who disagrees with the agency's final decision may file a lawsuit in federal court. OLC will insert in the cabinet report a notice of FOIA appeals and court cases. The cabinet report will indicate the name of the Requester as well as a description of the appeal or case.

Reports

A. Annual FOIA Report

OLC will prepare an annual report, consistent with DOJ requirements, that describes in detail items such as the number of requests (1) received (2) processed (3) redacted (4) full disclosure (5) number of requests pending and (6) number of requests appealed.

B. Annual FOIA Officer's Report

OLC will prepare an annual report, consistent with DOJ requirements, that describes ONDCP's efforts to comply with the Administration's policies and to remove any backlog of pending requests.

Liaison Training

Each ONDCP component will designate one or more of its employees to act as the Component FOIA Liaison. The Component FOIA Liaison will assist with locating, copying, and redacting records. OLC is responsible for developing FOIA training material and providing annual FOIA training for all ONDCP personnel and more intensive training for Component FOIA Liaisons.