



D9INST 5260.1A

DEC 29 2006

NINTH DISTRICT INSTRUCTION 5260.1A

Subj: FREEDOM OF INFORMATION ACT AND PRIVACY ACT REQUESTS

Ref: (a) Freedom of Information and Privacy Acts Manual, COMDTINST M5260.3  
(b) ALCOAST 386/06

1. PURPOSE. This instruction delegates release authority for records subject to disclosure under the Freedom of Information Act (FOIA) and the Privacy Act (PA) and supplements reference (a) by providing guidance for the release of Coast Guard records to the public by Ninth District units and staff components.
2. DIRECTIVES AFFECTED. Ninth District Instruction 5260.1 is cancelled.
3. DISCUSSION.
  - a. The goal of FOIA is to make government records available to the public to the widest extent possible. The government may only withhold a record from disclosure if it falls within one of the nine exemptions listed in reference (a). If the request for information comes from an individual who is the subject of the record, the request should be processed under both the FOIA and the PA. Requests from third parties should be processed under FOIA. Reference (a) provides specific guidance for processing both of these requests.
  - b. The significance of a "FOIA request" is that it triggers strict time limits on the decision whether to release the requested information, as well as time limits on the subsequent review of any denial to disclose. The FOIA/PA Coordinator for the unit where the records are located must make a decision on the releasability of a record within 20 working days. The Coast Guard is not required to provide the requested information within those 20 days; it is only required to make a decision on whether to release the information. However, release of the requested material should occur either simultaneously or promptly thereafter.

DISTRIBUTION – SDL No. 141 (D9 units only)

	a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s	t	u	v	w	x	y	z	
A			1										1		1												
B	*	1	*1																								
C	1	1		1	1					1													1			1	
D				1																							
E											1			1								1					
F						1				1	1					1											
G																											
H																											

NON-STANDARD DISTRIBUTION: B:c CCGD9 Divisions

DEC 29 2006

4. ACTION.

- a. Delegation of Release Authority. Authority to grant access to Coast Guard records under the FOIA/PA is delegated to the Ninth District Chief of Staff, Division Chiefs, Sector Commanders, Unit Commanding Officers and Officers-in-Charge. As per reference (b), District Commanders are delegated release authority for SAR and LE information in computer records (including data and attachments) from the Marine Information for Safety and Law Enforcement (MISLE) database in accordance with the FOIA. This instruction further delegates release authority for SAR and LE information in computer records (including data and attachments) from the MISLE database in accordance with the FOIA to Ninth District Chief of Staff, Division Chiefs, and Sector Commanders. Further delegation by Ninth District Chief of Staff, Division Chiefs, Sector Commanders is not authorized. MISLE information regarding Marine Casualty reports and investigations will continue to be released by COMDT (CG-385). Accordingly, all requests for Marine Casualty reports must be forwarded to COMDT (CG-385) and the requestor notified.
- b. Designation of FOIA/PA Coordinators. All Ninth District units and Ninth District Staff Division Chiefs shall designate a FOIA/PA Coordinator in writing in accordance with reference (a). FOIA/PA Coordinators shall become familiar with and shall comply with the provisions of reference (a).
- c. FOIA Denial Authority. Authority to deny access to Coast Guard records under the FOIA remains with the District Commander and cannot be delegated. This includes redaction of personal privacy information. In cases where the FOIA/PA Coordinator determines that denial of access to an entire record or a portion of a record may be appropriate, the FOIA/PA Coordinator immediately contact the Ninth District Legal Office for guidance.
- d. Required Reports. Reference (a) requires each district to submit an annual FOIA report and a biennial PA report to Headquarters. The District Legal Office shall consolidate input from FOIA/PA Coordinators for each of these reports. FOIA/PA Coordinators shall submit their annual FOIA input by 31 October each year and their biennial PA input by 2 January of even years via e-mail, using the formats contained in enclosures (1) and (2) of reference (a). Negative replies are required.
- e. FOIA/PA Guidance. FOIA/PA Coordinators shall contact the Ninth District Legal Office for guidance if any doubt exists regarding the releasability or processing of requested records.



JOSEPH R. CASTILLO  
Commander, Ninth Coast Guard District  
Acting

Encl: (1) FOIA Annual Report Template  
(2) Privacy Act Biennial Report Template

FREEDOM OF INFORMATION ACT ANNUAL REPORT  
(UNIT NAME) U.S. COAST GUARD  
FY 2006  
RCN-5260-1

I. Basic Information Regarding Report:

Name, telephone number, and e-mail address of person to be contacted with questions about the report:

II. How to Make a FOIA Request:

A. Name, Address, and Telephone Number of Component that Receives FOIA Requests:

Commandant (CG-611)  
United States Coast Guard  
2100 Second Street, SW  
Washington, DC 20593  
202) 475-3528

III. Definitions of Terms and Acronyms Used in the Report:

A. Agency-Specific Terms or Other Acronyms:

B. Basic Terms Used in This Report:

IV. Exemption 3 Statutes applied:

A. Exemption 3 statutes your unit has cited during current fiscal year 2006.

1. Brief description of type(s) of information you withheld under each statute.
2. State whether a court has upheld the use of each statute your unit used.

V. Initial FOIA/PA Access Requests:

A. Number of Initial Requests:

1. Number of requests pending at close of fiscal year 2005:

ENCLOSURE ( 1 )

2. Number of requests received during fiscal year 2006:
3. Number of requests processed during fiscal year 2006:
4. Number of requests pending at close of fiscal year 2006:

**B. Disposition of Initial Requests.**

1. Number receiving a full release:
2. Number receiving a partial release:
3. Number receiving a full denial:

Enter number of times each FOIA exemption was used (counting each exemption once per request):

Exemption 1	
Exemption 2	
Exemption 3	
Exemption 4	
Exemption 5	
Exemption 6	
Exemption 7 (A)	
Exemption 7 (B)	
Exemption 7 (C)	
Exemption 7 (D)	
Exemption 7 (E)	

**4. Other reasons for non-disclosure (total):**

a	No records	
b.	Referred to appropriate agency	
c.	Request withdrawn	
d.	Fee-related reason	
e.	Records not reasonably described	
f.	Not a proper FOIA request	
g.	Not an agency record	
h.	Duplicate request	
i.	Other reason (please describe)	

	Available from other public sources	
	Referred in error	
	Failure to perfect request	
	Unable to locate requester	
	Administratively closed	
	In litigation	

**VI. Appeals of Release Determination of FOIA Requests:**

**A. Number of Appeals of Release Determinations and Outcomes:**

1. Number of appeals received during FY 2006:
2. Number of appeals processed during FY 2006:

**B. Disposition of Appeals:**

1. Number of release determination upheld:
2. Number of release determination partially upheld:
3. Number of release determination reversed:
  - a. Exemptions Used: Enter number of times each FOIA exemption was used in appeals:

Exemption 1	
Exemption 2	
Exemption 3	
Exemption 4	
Exemption 5	
Exemption 6	
Exemption 7 (A)	
Exemption 7 (B)	
Exemption 7 (C)	
Exemption 7 (D)	
Exemption 7 (E)	
Exemption 7 (F)	

4. Other reasons for non-disclosure (total):

a.	Remanded appeals	
b.	Withdrawn appeals	
c.	No records	
d.	Referred to appropriate agency	
e.	Request withdrawn	
f.	Fee-related reason	
g.	Records not reasonably described	
h.	Not a proper FOIA request for some	
i.	Not an agency record	
j.	Duplicate request	
k.	Other reason (please describe)	
	Available from other public sources	
	Referred in error	
	Failure to perfect request	
	Unable to locate requester	
	Administratively closed	
	In litigation	

VII. Compliance with Time Limits/Status of Pending FOIA Requests:

A. Median processing time for requests processed during fiscal year 2006:

1. Simple requests:

- a. Number of requests processed:
- b. Median number of days to process:

2. Complex requests:

- a. Number of requests processed:
- b. Median number of days to process:

3. Expedited requests:

- a. Number of requests granted expedited processing:
- b. Median number of days to process:

4. Requests not using multi-track processing:
  - a. Provide number of requests processed:
  - b. Median number of days to process:

B. Status of Pending FOIA Requests.

1. Number of requests pending at end of current fiscal year 2006:
2. Median number of days of pending requests at end of FY 2006:

VIII. Comparisons with Previous Years:

- A. Comparison of numbers of requests received:
- B. Comparison of numbers of requests processed:
- C. Comparison of median number of days requests were pending at the end of fiscal year 2006:
- D. Other statistics significant to agency:
- E. Other narrative statements describing agency efforts to improve timeliness of FOIA performance and to make records available to the public (e.g., backlog-reduction efforts; specification of average number of hours per processed request; training activities; public availability of new categories of records).

IX. Costs/FOIA Staffing:

- A. FOIA Staffing levels:
  1. Number of full-time FOIA staff (federal and contractor):
  2. Number of staff with part-time or occasional FOIA duties:
  3. Total number of staff:

B. FOIA Processing Costs:

1. Processing costs including appeals:
2. Litigation-related activities (estimated):
3. Total costs:
4. Comparison with previous fiscal year 2005 to current fiscal year 2006 (including percentage of change):

C. Statement of additional resources needed for FOIA compliance/comments.

X. Fees:

- A. Total amount of fees collected:
- B. Percentage of total costs:

Encl. (2) to COMDTINST M5260.3

FORMAT FOR INDIVIDUAL "BIENNIAL" PRIVACY ACT REPORT

RCN-5260-2

Source: COMDTINST M5260.3 (series) and  
5 U.S.C. §552a

Each executive agency of the Federal government is required by the Privacy Act to provide an annual statement to Congress on the status of Privacy Act implementation over the previous two years. Individual USCG commands are polled by Headquarters on an annual basis. The consolidated statement for the Coast Guard is compiled by Commandant. Chap. 20 of COMDTINST M5260.3 (series) assigns responsibility for completing and forwarding the individual report to Commandant (G-SII-2).

SECTION A - Plans for Reducing the Amount of Personnel Record-keeping (Information maintained about individuals) during the next Calendar Year.

1. Summarize any major achievements in protecting personal information during the past year. Also, outline plans for the next year.
2. Outline plans for reducing the number and scope of systems of records during the next year.
3. Describe any overall changes or trends in record-keeping patterns. Summary shall include:
  - a. Kinds of systems. Indicate any systems of records which have been created or discontinued during the reporting period.
  - b. Computers. Has there been an increased or decreased emphasis on the use of computers for record-keeping?
  - c. Changes to functions. Have any existing systems of records been expanded to serve additional functions?

SECTION B - Administration of the Act

1. Administration. Does your area of cognizance have any recommendations for improvement of the administration of the Privacy Act?
2. Effect. What effect has the Act had on administration within your area of cognizance?
3. Evaluation. Indicate whether the following provisions of the Manual have generally achieved their purpose and include any suggested alternative means of achieving these ends.
  - a. Are disclosure accounting instructions adequate and if not, why?
  - b. How has the Manual's limitations on maintaining only that information necessary for an authorized function affected mission accomplishment?
  - c. Has your area of cognizance experienced any problems with the requirement to publish systems notices in the Federal Register prior to implementation of the system?
  - d. Has your area of cognizance experienced any problems maintaining standard of accuracy, relevance, timeliness and completeness?
  - e. What has been the effect of the requirement to review and validate records before their release outside the Coast Guard?
  - f. How has the provision of restrictions on record-keeping describing how an individual exercises rights guaranteed by the First Amendment affected your area of cognizance?
4. Report the results of any review of routine use disclosures for each system of record required to be conducted every three years.
5. Report the results of the required review of exemptions authorized for each system of records in order to determine whether the exemption(s) is still needed.

6. Report the results of the required review of each system of records notice. For each system notice provide the following:

- a. Date of last review for accuracy.
- b. Is the system notice accurate? (Yes/No)
- c. Date amended notice was published in the Federal Register. (If 6.b is no).

SECTION C - Effects of the Act on Collection and Disclosure

1. Has the requirement that information be collected to the extent possible from the individual, affected local procedures and/or practices? If so, how and to what extend?
2. Has there been a change in the willingness of individuals to provide information about themselves? Has the Privacy Act statement made a perceptible difference?
3. Has there been a change in the amount and/or quality of information available from third party sources? Are pledges of confidentiality regularly requested?
4. Has it become necessary to develop alternative sources of information affected operating procedures?
5. How have the Act's limitations on the disclosure of information affected the exchange of information?
6. How have state and local Privacy and Freedom of Information laws affected the exchange of information?

SECTION D. - Other Problem Areas and recommendations for Act with other laws, such as the Change (Address any problems which have arisen in connection with the Privacy Act in addition to the areas discussed above. This section might include the interface of the Privacy Freedom of Information Act, veteran's benefits, public assistance, or tax laws; or relations with the states or the private sector. Recommendations for changes, either in administration polices or the law itself should be provided, and should include specific language where possible.)

Encl. (2) to COMDTINST M5260.3

## SECTION E - Exercise of Individuals Rights

This part of the report addresses individual rights. Do not include requests for access to service or health records by current Coast Guard military or civilian personnel--unless the request refers to either the Privacy Act or Freedom of Information Act. All other written requests by individuals for access to or amendment of their own record must be included in the report.

### 1. Requests:

- a. Number of requests returned due to lack of sufficient information to identify the system to which access was sought.
- b. Number of requests for notice of the existence of records only.
- c. Number of requests from current or prior Federal employees
- d. Number of Privacy Act requests which cited:
  - (1) Privacy Act
  - (2) Freedom of Information Act
  - (3) Both Acts
  - (4) Neither Act
  - (5) Total requests (1+2+3+4)

### 2. Access

- a. Total number of requests for access received.
- b. Number of requests for access totally granted.
- c. Number of requests for access totally partially denied.
- d. Number of requests for access totally denied.

e. Number of times each exemption was invoked:

(J) (2)

(k) (1)

(k) (2)

(k) (3)

(k) (4)

(k) (5)

(k) (6)

(k) (7)

f. Number of request for access to exempt systems:

(1) Number totally granted.

(2) Number partially granted.

(3) Number totally denied.

3. Amendments.

a. Total number of requests for amendment received.

b. Number totally granted.

c. Number partially granted.

d. Number totally denied.