



**Court Services and Offender Supervision Agency
Pretrial Services Agency
for the District of Columbia
Office of the General Counsel**

OPERATIONAL INSTRUCTION

Title: OI 1103.11 Freedom of Information Act
Procedure
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Sheila Stokes
General Counsel, OGC, CSOSA

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Karen L. Lellock
Assistant Director, PSA MA

Overview

Introduction

PS 1103 sets forth a commitment by the Court Services and Offender Supervision Agency (CSOSA) and the Pretrial Services Agency for the District of Columbia (PSA) (or collectively, the Agency) to fully comply with the Freedom of Information Act (FOIA), as amended, and provide the public access to certain information. The FOIA allows any person to request access to federal agency records or information. This Operational Instruction (OI) outlines the steps for requesting and responding to FOIA requests.

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FOIA Requests

Introduction

The Agency ordinarily processes requests for records or information according to the FOIA. The FOIA applies to records or information either created or obtained by the Agency and under the Agency's control at the time of the FOIA request. Not all records are required to be released under the FOIA.

The FOIA provides that any person has a right, enforceable in court, to access federal agency records, except to the extent that such records (or portions thereof) are protected from disclosure. A record can be protected from disclosure by an exemption or a special law enforcement record exclusion. See [FOIA Exemptions and Law Enforcement Exclusions](#) for further information. The Agency will consider making a partial disclosure of records or information whenever it determines that full disclosure is not possible.

A requester can submit a request electronically or by mail. The request should clearly describe the records sought; see [FOIA Frequently Asked Questions](#) for further information.

The FOIA requires that, except in "unusual circumstances" as defined by the FOIA, initial agency decisions on whether to grant or deny access to records must be made within 20 business days of receiving the request, and the requester is so notified.

Electronic Requests

Electronic requests should be submitted to:

- <https://www.foia.gov/>; or
- By e-mail at FOIA@csosa.gov.

Mail Requests

Requests submitted by mail:

- Must be addressed to the FOIA Officer, Court Services and Offender Supervision Agency, at 800 North Capitol Street, N.W., Suite 702 Washington, DC 20002; and
- Should have "Freedom of Information Act Request" marked on the face of the letter and envelope.

There are several options a requester may use to submit their FOIA request by mail, including First Class mail or any courier service, such as FedEx.

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FOIA Requests, Continued

Requests by Offenders/Defendants for their Own Records

- Offenders/defendants may request a copy of their records in writing by submitting the request electronically or by mail.
 - Offenders/defendants making a request for their own records must provide their:
 - Full name;
 - Current address;
 - Date of birth;
 - DCDC or PDID number to assist in identifying requested records; and
 - Signature.
 - The signed request must be either notarized or sworn under penalty of perjury pursuant to [28 U.S.C. § 1746](#). In the alternative, the offender/defendant may also complete the [Request for Individual Access to Records Protected under the Privacy Act Form](#). The request must contain a statement that you are the person you say you are and be dated within three (3) months of the request's date.
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Requests on behalf of an Offender/Defendant

- Records can only be released to a third-party requester with the offender's/defendant's written authorization.
 - The offender's/defendant's written authorization must accompany the third-party letter request and must be dated within 30 days of the request letter's date.
 - The offender's/defendant's written authorization must contain the personal identifying information and the personal statement of identity, set forth above in Requests by Offenders/Defendants for Own Records. The written authorization also must be signed by the offender/defendant and either be notarized or sworn to under penalty of perjury pursuant to [28 U.S.C. § 1746](#). In the alternative, the offender/defendant may complete the [Consent for Disclosure of Records Protected under the Privacy Act Form](#).
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Requests by Individuals, Commercial Businesses, Educational, and News Media

- Individuals, commercial businesses, educational institutions, non-commercial scientific institutions, and news media representatives may submit written requests for access to federal agency documents. Such requests must include:
- A description of the record sought; and
 - The date(s) covered by the record.
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FOIA Requests, Continued

Time to Respond and Unusual Circumstances

- The Agency is required to respond to FOIA requests within 20 business days, unless there are unusual circumstances that delay the response.
 - The FOIA provides an additional 10 business days for the Agency to respond to a request when there are unusual circumstances.
 - Unusual circumstances include:
 - The need to collect responsive records from field offices;
 - The request involves a "voluminous" amount of records which must be located, compiled, and reviewed; or
 - The Agency must consult with multiple divisions within the Agency which have a substantial interest in the responsive material.
 - A requester may ask for a response sooner than 20 business days. The Agency will consider expedited response requests on a case-by-case basis and only for limited reasons, see [28 CFR § 802.8](#).
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Other Requests that can be submitted through FOIA

Introduction

Employees and former employees may request their personnel file and/or other documents concerning the requester that are not contained in the employee's personnel file, but are maintained in an Agency system of records.

Requests by current and former employees or their authorized representative can fall under both the Privacy Act and the FOIA. Depending on the information requested, these particular requests are processed according to the applicable provisions of the [Privacy Act, 5 U.S.C. § 552a](#), and the [FOIA, 5 U.S.C. § 552](#). Requests for records under the Privacy Act received by the FOIA Officer are reviewed for compliance with Agency procedures regarding notarization and to ensure that statutory compliance has been met.

Submitting A Request

Requests may be submitted:

- Electronically at <https://www.foia.gov/>;
 - By e-mail at FOIA@csosa.gov; or
 - By mail to the FOIA Officer, Court Services and Offender Supervision Agency at 800 North Capitol Street, N.W., Suite 702 Washington, DC 20002.
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Requests By Employees, Former Employees or Their Authorized Representative

- The request must:
 - Clearly be marked on the face of the letter and the envelope "FOIA or Privacy Act Request"; and
 - Clearly describe the record sought, including the approximate date(s) covered by the record.
 - An employee or former employee making a request must:
 - Provide identification data (e.g. full name, current address, date of birth);
 - Complete the consent [form](#);
 - Ensure that the request is **not** made on Agency letterhead; and
 - Have their signature notarized or a self-sworn declaration under [28 U.S.C. § 1746](#).
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Processing FOIA Requests

Introduction

The FOIA Officer reviews all FOIA requests to ensure the request satisfies the FOIA requirements. Requests are processed within the time limits defined by the FOIA.

The FOIA Officer ensures that:

- Information gathered and retained by the Agency is disclosed where the information is subject to the FOIA and/or any other applicable law or policy setting forth public access to information; and
 - Information that is **exempt** from disclosure is protected by one (1) of nine (9) exemptions or by one (1) of three (3) special law enforcement record exclusions and protects information that is not authorized for discretionary disclosure.
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Processing FOIA Requests

The Office of General Counsel (OGC) staff processing requests for release of information under the FOIA are subject matter experts familiar with the provisions of [5 U.S.C. § 552](#), as follows:

- A requester must be notified of the decision on the request within 20 business days of its receipt. This time limit may be extended up to an additional ten (10) business days if there are unusual circumstances.
 - Generally, all FOIA requests are processed in the approximate order of receipt, unless the requester demonstrates exceptional circumstances that justify an expedited response, see [28 CFR § 802.8](#). Examples that may justify an expedited response include:
 - A threat to life or safety;
 - The loss of substantial due process rights; or
 - In case of widespread and exceptional interest to the media, possible questions about the Agency's integrity which affect public confidence.
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Processing FOIA Requests, Continued

FOIA Requests to CSOSA The table below identifies who is responsible and what happens at each step when a FOIA request is made to CSOSA. Unless otherwise noted, the FOIA Officer is responsible for each action.

Step	Action						
1	<ul style="list-style-type: none"> • Logs the FOIA request in FOIAXpress within one (1) business day of receipt of request. 						
2	<ul style="list-style-type: none"> • Sends a FOIA Acknowledgement Letter to the requester the same business day or within one business day of receipt of the FOIA request. • The acknowledgment letter: <ul style="list-style-type: none"> – Acknowledges receipt; – Includes the FOIA tracking number; – Citation of the FOIA statute; and – Fee information. • Determines whether a fee waiver or expedited request is granted or denied and explains in the FOIA acknowledgment letter only if the FOIA requester requested a fee waiver or expedited request. 						
3	<ul style="list-style-type: none"> • Reviews the FOIA request, typically the day of receipt or no later than one (1) business day. • Determines if the responsive records are readily accessible to the FOIA staff, meaning the FOIA staff can retrieve the records themselves. <table border="1" data-bbox="389 1261 1358 1384"> <thead> <tr> <th data-bbox="389 1261 874 1299">If the responsive record is ...</th> <th data-bbox="874 1261 1358 1299">Then proceed to ...</th> </tr> </thead> <tbody> <tr> <td data-bbox="389 1299 874 1337">Readily accessible to FOIA staff</td> <td data-bbox="874 1299 1358 1337">Step 4</td> </tr> <tr> <td data-bbox="389 1337 874 1384">Not readily accessible to FOIA staff</td> <td data-bbox="874 1337 1358 1384">Step 5</td> </tr> </tbody> </table>	If the responsive record is ...	Then proceed to ...	Readily accessible to FOIA staff	Step 4	Not readily accessible to FOIA staff	Step 5
If the responsive record is ...	Then proceed to ...						
Readily accessible to FOIA staff	Step 4						
Not readily accessible to FOIA staff	Step 5						
4	<ul style="list-style-type: none"> • Searches for the records within one (1) to two (2) business days of receipt of the request. 						
5	<ul style="list-style-type: none"> • Sends a search request for responsive records the day of receipt of the FOIA request or no later than one (1) business day to the specified program office along with a copy of the original FOIA request letter. <p>Note: The FOIA Office will request the program office to provide the responsive records within two (2) business days to the FOIA office.</p>						

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Processing FOIA Requests, Continued

FOIA Requests to CSOSA, continued

Step	Action
6	<p>Once responsive records have been identified, the FOIA Office:</p> <ul style="list-style-type: none"> • Uploads the records into FOIAXpress; • Begins to process records for release; and • Reviews each document and applies any applicable exemptions or exclusions.
7	<ul style="list-style-type: none"> • Upon final review of records and all exemptions have been applied in FOIAXpress, the FOIA office downloads the final records and prepares for final release.
8	<ul style="list-style-type: none"> • Prepares a final FOIA determination letter, including: <ul style="list-style-type: none"> – A summary of the responsive records located; – Applicable exemptions; – FOIA appeal language; and – FOIA staff contact information. • Combines the final FOIA determination letter and a copy of the final responsive records and sends the final release to the FOIA requester. • Closes-out the FOIA request in FOIAXpress the same date that the final FOIA determination letter and responsive records are sent to the requester. <p>Note: Steps 6, 7, 8 are part of the process that can take one (1) to 20 business days as provided by the FOIA statute, and if unusual circumstances, such as voluminous records, the FOIA statute allows an additional 10 business days.</p>

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Processing FOIA Requests, Continued

FOIA Requests to PSA The table below identifies who is responsible and what happens at each step when a FOIA request is made to PSA.

Step	Responsible Party	Action
1	OGC	<ul style="list-style-type: none"> Forwards the original FOIA request to PSA's Office of Legal Services (OLS) by the next business day following receipt.
2	OLS	<ul style="list-style-type: none"> Ensures the requested records are gathered and reviewed within five (5) business days. Notifies OGC immediately if additional time is needed to collect the records and whether the time to research or duplicate the documents requires the payment of fees(FOIA Fees section).
3	OGC	<ul style="list-style-type: none"> Notifies the requester if additional time is required to gather all records and whether fees must be paid and, if so, in what amount. Informs OLS of all communication with the requester and of any problems or issues that arise.
4	OLS	<ul style="list-style-type: none"> Presents all requested records to OGC.
5	OGC	<ul style="list-style-type: none"> Makes a recommendation on whether to release information in whole or in part and provides timely notifications to OLS.
6	OLS	<ul style="list-style-type: none"> Reviews OGC's recommendation before OGC notifies the requester of the decision. <p>Note: If PSA disagrees with OGC's recommendation, PSA works with OGC to reach a final decision.</p>
7	OGC	<ul style="list-style-type: none"> Notifies the requester of the decision within 20 business days of the receipt of the request. Confirms with OLS that OGC provided the records to the requester and submits a hard or electronic copy to PSA of the records release. <p>Note: This time limit may be extended up to an additional 10 business days, due to unusual circumstances.</p>

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Processing FOIA Requests, Continued

Denial

If OGC denies a FOIA request in whole or in part, the FOIA Officer signs and issues a denial letter stating the basis for denial and informing the requester of their right to appeal the denial decision.

FOIA Fees

Fee Schedule

- There is no initial fee to make a FOIA request, and in some cases, no fees are charged. However, under [28 CFR 802.10](#), the Agency is permitted to recover the costs associated with processing FOIA requests. For fee purposes, FOIA divides requesters into three categories:
 - 1) Commercial use requesters are charged for any search time, document review, and duplication;
 - 2) News media, educational, or scientific requesters are charged for duplication only, after the first 100 pages; or
 - 3) All other requesters are charged for search time (after two hours) and duplication (after 100 pages).
 - The requester may make a specific statement in their request limiting the fees they are willing to pay. If they do not state a particular fee limit, the FOIA office will assume that they are willing to pay all fees incurred while processing the request.
 - The Agency notifies the FOIA requester if:
 - The fees will exceed the limit as authorized by the requester; or
 - The estimated fees exceed \$250.00
 - The requester may receive the opportunity to narrow the request to reduce the fees or be asked to confirm their commitment to pay the estimated amount.
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Search Fee Schedule

- The reproduction fees are \$0.25 per page. The current search and review fee is calculated by multiplying the number of quarter hours over two (2) hours by the following rates for the staff conducting the search:
 - \$7.00 per quarter hour for clerical staff;
 - \$10.00 per quarter hour for professional staff; and
 - \$14.00 per quarter hour for managerial personnel.
 - Only fees above \$10.00 will be assessed. This means that the total cost must be greater than \$10.00, either for the cost of the search (for time in excess of two (2) hours), for the cost of duplication (for pages in excess of 100), or for both costs combined.
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FOIA Fees, Continued

Fee Waivers

A [waiver](#) may be requested for FOIA processing fees. However, fee waivers are limited to situations in which a requester can show that disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the government's operations and activities and is not primarily in the commercial interest of the requester.

Any FOIA requester may request that the Agency waive all fees associated with the request. The request for the fee waiver must be submitted with the FOIA request.

The FOIA Office considers fee waiver requests on a case-by-case basis and makes its fee waiver determinations based upon the information accompanying the requester's FOIA request.

In deciding whether the requester has met the criteria above, the Agency will consider the following factors:

1. The subject of the request must concern identifiable operations or activities of the Federal government, with a connection that is direct and clear, not remote or attenuated.
 2. The disclosable portions of the requested records must be meaningfully informative about government operations or activities to be "likely to contribute" to an increased public understanding of those operations or activities. Information that already is in the public domain, in either the same or a substantially identical form, would not contribute to such understanding.
 3. The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the requester's individual understanding. The Agency will consider the requester's expertise in the subject area as well as the requester's ability and intention to convey information to the public effectively.
 4. The public's understanding of the subject must be enhanced to a significant extent by the disclosure.
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Administrative Appeal and Judicial Review

Introduction A requester who is dissatisfied with the response to the initial request has a statutory right to appeal the Agency's adverse initial determination by submitting an appeal letter in writing. The requester may also seek judicial review of the Agency's final decision in federal court. If a court determines that agency personnel have acted arbitrarily or capriciously in withholding records, disciplinary action against the employee primarily responsible may be warranted.

Requester Right to Appeal A requester may appeal a determination in the case of:

- Any partial or total denial of access to records;
- A fee waiver denial;
- A determination of the category of the requester, for fee purposes, that would determine the fees the requester would be required to pay;
- A no-records response determination; or
- A denial of a request for expedited processing.

Appeal Letter

- Appeals can be submitted electronically at FOIA@csosa.gov or by mail.
- Appeals must be made within ninety (90) calendar days of the receipt of the letter with an adverse determination.
- Submissions by mail must be sent to:
 - The Office of the General Counsel, Court Services and Offender Supervision Agency for the District of Columbia, 800 North Capitol Street, NW, Seventh Floor, Suite 702, Washington, D.C. 20002; and
 - Both the envelope and the letter must be clearly marked “Freedom of Information Act (FOIA) Appeal.”

Appeal Determination

- OGC makes an appeal determination within twenty (20) business days from the date of receipt of the appeal. This time limit may be extended up to an additional ten business (10) days, due to unusual circumstances.
- If, after review, the General Counsel determines that additional information should be released, it is accompanied with the appeal response.

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Administrative Appeal and Judicial Review, Continued

Judicial Review According to [5 USC § 552\(a\)\(4\)\(B\)](#), FOIA decisions are generally reviewed under the “de novo” standard in court, *see* 5 U.S.C. § 552(a)(4)(B),— meaning the court will review the agency’s actions anew.

Non-Agency Documents

Documents from other federal agencies

When a request for [records](#) includes a document that originated from another Federal agency:

- The FOIA Officer forwards the request for release of the record to the originating federal agency to make the release determination;
- The requester is informed of the referral; and
- The referral decision is not a denial of a FOIA request; thus, no appeal rights attach.
- The FOIA Officer can forward the record for consultation. The consultation will request that the other Federal agency review and provide recommendations on disclosure. The Agency will not release any such record without prior consultation with the other Federal agency that has equities.
- The FOIA Officer can also release [records](#) under the Law Enforcement Routine Use exception.

If the requested information is for records created 25 years or more before the date of the request, the Agency is permitted to release the information without referral and/or consultation with the other federal agency.

Documents from non-federal agencies

When a request for records includes a document that originated from a non-federal agency, the FOIA Officer instructs the requester to submit a separate FOIA request to the non-federal agency.

Directing a requester to submit a separate FOIA request to a non-federal agency is not a denial of a FOIA request; thus, no appeal rights attach.
