



DEPARTMENT OF THE NAVY  
NAVAL HISTORY AND HERITAGE COMMAND  
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WASHINGTON NAVY YARD DC 20374-5060

IN REPLY REFER TO

NHHCINST 5720.3B  
HAD  
20 Apr 18

NAVAL HISTORY AND HERITAGE COMMAND INSTRUCTION 5720.3B

Subj: FREEDOM OF INFORMATION ACT POLICIES AND PROCEDURES

Ref: (a) 5 U.S.C. § 552  
(b) 44 U.S.C § 3506  
(c) DoD Directive 5400.07  
(d) DoD Freedom of Information Act 5400.07  
(e) 32 CFR Part 286  
(f) DoDM 5400.07  
(g) EO 13392  
(h) SECNAVINST 5215.1E  
(i) UNSECNAV Memorandum of 14 May 2012  
(j) DONCIO Memorandum of 12 December 2013  
(k) SECNAVINST 5720.42G  
(l) SECNAV M-5210.1  
(m) OPNAVINST 5450.342A  
(n) DoDM 5200.01 Vol. 1

1. Purpose. This instruction implements the Freedom of Information Act (FOIA), per the responsibilities set forth references (a) and (b), as authorized by reference (c), and following related laws and practices, in notably promulgated in references (c) through (n) for Naval History and Heritage Command (NHHC).

2. Background. Reference (h) implements the FOIA within the Department of the Navy (DON). The FOIA establishes a statutory right of public access to Executive Branch information in the federal government, except to the extent that such records, or portions of them, are protected from public disclosure by a specific exemption of exclusion.

a. The FOIA states that “any person” (including, but not limited to, U.S. citizens; foreign nationals, whether living inside or outside the United States; partnerships; corporations; associations; and foreign nationals and domestic governments) may make a request for agency records by submitting a FOIA request to that agency. Neither Federal agencies nor fugitives from justice may use the FOIA to access agency records.

b. A FOIA request is a written request for agency records that explicitly or implicitly invokes the FOIA or any implementing directive.

c. The term “agency record” includes all recorded information, regardless of form or characteristics, made or received by the DON in connection with the transaction of public business and in the DONs control at the time the FOIA request is made. This includes historical records, reference collections, and command-generated records of NHHHC offices (e.g. visitor logs, planning documents, contracts, and employee e-mails).

3. Cancellation. NHHCINST 5720.3A of 6 June 2011.

4. Scope and Applicability. This instruction applies to all military members, civilian employees and in contractors in NHHHC.

5. Policy

a. NHHHC holds records dealing with an array of topics, originating from commands with broad ranges of responsibilities. The existence and utility of many of these records are not generally known to the public. It is therefore essential for a FOIA coordinator to look beyond the basic records request and try to get at the specific informational needs of the requester.

b. The FOIA provides members of the public with an avenue to request records from the Federal government, and is not intended as a means to provide raw information or interpretation of the content of Federal records. However, per reference (m), NHHHC’s mission includes both the preservation of records and the interpretation of the U.S. Navy’s history and heritage. In cases where a FOIA requester asks for both specific records and assistance in interpreting those records, the records will be provided under the provisions of the FOIA and any included request for information, depending on the nature of the request, will be forwarded to an appropriate subject matter expert (SME) for review and response.

c. Every reasonable attempt should be made to make high-interest records electronically available via the NHHHC website.

(1) A “high-interest record” is any record in NHHHC’s custody that has been requested by members of the public three or more times.

(2) A SME may also suggest that a particular item be considered a high-interest record in light of current events or operations, or upcoming anniversaries or commemorations. In this case, the SME will coordinate with the Archives Branch Head to make a final determination.

(3) NHHHC’s online FOIA reading room serves as the command’s central repository of high-interest records.

d. NHHHC is responsible for coordinating the review and release of all historical records in its custody.

(1) NHHHC does not have classification authority, and cannot declassify records in response to a FOIA request.

(2) In cases where a record's originating command no longer exists, NHHC will make a comprehensive effort to determine which successor command holds cognizance over the mission reflected in the requested record, and will refer the record to that command for review and direct reply to the requester.

(3) Declassified records held at NHHC, reference (n) mandates a public release review by the original classification authority (OCA) prior to allowing public access. NHHC will refer the request and the responsive records to the OCA for a direct response to the requester. The FOIA coordinator is responsible for following up with the command for their final disposition for tracking purposes and future submissions for the same records.

(4) The Director, Naval Nuclear Propulsion Program, CNO (NO0NB)/NAVSEA (08) is the Initial Denial Authority (IDA) for all information and requests concerning Naval Nuclear Propulsion Information. Upon receipt of such requests, NHHC is responsible for searching for responsive records. If no pertinent documents are located, NHHC will respond to the requester and provide CNO (N00NB) with a copy of the request and response. In the event responsive records are located, NHHC will refer the request, any responsive documents, and a recommendation regarding release to CNO (N00NB), 2000 Navy Pentagon, Washington, DC 20350-2000, who will make the release determination to the requester.

(5) The Naval Inspector General (IG) is the IDA for all DON IG records and other DON records that pertain to IG records. Requests subject to the Naval IG's release or denial authority for record held by NHHC will be promptly provided to the NHHC IG for disposition.

## 6. Responsibilities

a. Reference (k) identifies Director, NHHC, as the echelon II FOIA coordinator and responsible official holding IDA on behalf of SECNAV.

b. Per reference (k), the Director, NHHC delegates IDA responsibilities to the Assistant Director for Histories and Archives (Code 400). Further, the Director, NHHC delegates the NHHC echelon II FOIA program management responsibilities to the Histories and Archives Division (HAD).

c. The Team Lead, FOIA program, within the Archives Branch of HAD, NHHC, is designated as the Command FOIA coordinator and carries out the day to day FOIA program execution as follows:

(1) Acts on behalf of, and with authority vested by the Director, NHHC and the Assistant Director for Histories and Archives.

(2) Implements and administers local FOIA program per reference (k) and this instruction.

(3) Serves as principal point of contact on FOIA matters within and concerning the command and detachments.

(4) Provides general awareness training to command and detachment personnel on the provisions in reference (k) to this instruction.

(5) Ensures full participation in the FOIAonline system.

(6) Conducts hands-on, specialized training with members of NHHC that have specific duties relating to the FOIA. This will include an explanation of the FOIA exemptions and exclusions and how the law been implemented in the past, both at NHHC and the Federal government writ large.

(7) Prepares and maintains a guide to the FOIA as it relates to NHHC generated records as well the permanent historical records stored and managed by NHHC on behalf of the DON.

(8) Maintains an updated syllabus outlining all training required by FOIA personnel and not offered directly by NHHC. This includes training offered by the Department of Defense, Department of Justice, and non-Federal organizations such as Graduate School USA or the American Society of Access Professionals (ASAP).

d. Other Assistant Directors at NHHC may authorize the release of NHHC records that originate within their programs, either by themselves or by their subordinates, in their normal course of operations, subject to the policy and guidance in reference (k). Prior to exercising this authority, the assistant directors shall attend a FOIA training course. If they or any of their subordinates receives a FOIA request, the request shall be forwarded to the NHHC FOIA coordinator as soon as possible.

## 7. Procedures

a. Incoming FOIA requests will be entered and tracked in the DON's online FOIA tracking system, FOIAonline. Administration of the NHHC FOIA program, including adherence to key request processing milestones, will be conducted per reference (k) and guidance published by the DON, Department of Defense, or Department of Justice. Museums that receive FOIA requests will forward these requests to the NHHC FOIA coordinator for action and answering.

b. The FOIA coordinator will maintain all records relating to the administration of the NHHC FOIA program. Electronic records will be maintained in the FOIAonline system, and hardcopy records will be maintained in the Navy Archives. Records will be managed per reference (b).

c. Every attempt will be made to answer requests in the time frame delineated in reference (a). In the event that a request cannot be answered in that time frame, and a representative of NHHC has not contacted the requester and arranged a mutually-agreeable alternate time frame for a response, all fees for that request will be waived.

d. Responses that do not require the signature of the IDA per reference (a) may be sent via e-mail or other electronic delivery method, if responding in such a way would be more convenient than drafting a hardcopy response. E-mail responses shall include all information which would have been included in a hardcopy response, including the date of receipt of the request, the request case number, and contact points for the NHHC FOIA service center.

e. Per reference (k), the NHHC Communications and Outreach Division (COD) Public Affairs Office (PAO) will be notified of all requests received from a member of the news media. In addition, the COD PAO will forward all news media requests for records to the NHHC FOIA coordinator for

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review and coordination of release. The NHHC Histories Branch will be notified of all requests received from a member of academia working in the fields of naval, military, or maritime history or other allied disciplines. Only notification to, not approval from, is expected. Either office may choose to offer further assistance to the requester outside of the aegis of FOIA, but neither referral negates the requirement to respond to the original FOIA request.

f. The FOIA coordinator will prepare and submit all reports required by DNS-36, including input for the DON's Chief FOIA Officer Report as well as compile FOIA statistics and submit the annual FOIA report. Copies of all reports will be sent to the IDA and the Assistant Director for Histories and Archives, Naval History and Heritage Command.

8. Records Management. Records created as a result of this instruction, regardless of media and format, will be managed per Secretary of the Navy Manual 5210.1 of January 2012.

9. Review and Effective Date. This instruction is effective the date of signature and will be reviewed annually.



S. J. COX  
Director, Naval History and  
Heritage Command

Releasability and distribution:

Electronic only, via Share-drive

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