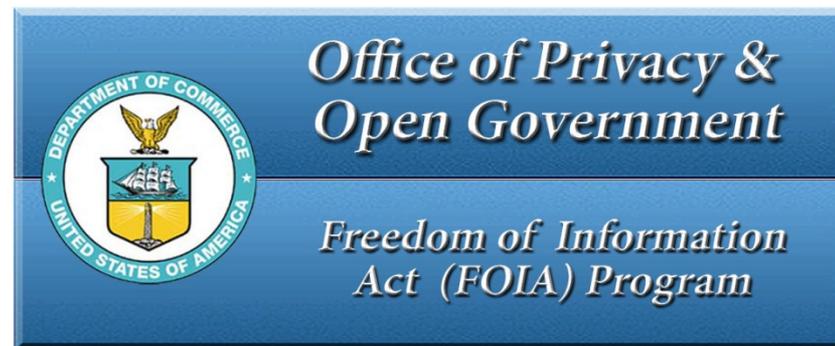


# *Freedom of Information Act 2016*

***Presented to:  
2017 Sunshine Week Event  
Department of Commerce  
and U.S. Census Bureau***



**Presenter:**

**Michael J. Toland, Ph.D.  
Deputy Chief FOIA Officer,  
Department Privacy Act Officer, and  
Deputy Director for FOIA/Privacy Act Operations  
Office of Privacy & Open Government  
United States Department of Commerce**

**Presented: March 16, 2017**

**(202) 482-3842  
mtoland@doc.gov**



Office of Privacy &  
Open Government

Freedom of Information  
Act (FOIA) Program

# *Brief Overview of the FOIA*

- The Freedom of Information Act (FOIA) is a law that gives people the right to access information from the federal government
  - ✓ FOIA is often described as the law that keeps citizens in the know about their government
  - ✓ FOIA requires federal agencies to disclose information contained in federal records, unless it falls under:
    - one of nine exemptions, or
    - one of three law enforcement exclusions
- The right to access may be enforceable in Federal Court





Office of Privacy &  
Open Government

Freedom of Information  
Act (FOIA) Program

# *Brief Overview of the FOIA*

- President Lyndon Johnson signed the FOIA into law on July 4, 1966
- FOIA has been amended periodically over the years (for example, Electronic FOIA Amendments of 1996 and the FOIA Improvement Act of 2016)
- FOIA applies only to the Executive Branch of the federal government
- States have their own access laws for state records
  - ✓ Occasionally, we receive request citing state FOI laws
  - ✓ Those access laws do not apply to the federal government
- Sweden had the first such “access” law adopted in 1766





Office of Privacy &  
Open Government

Freedom of Information  
Act (FOIA) Program

# *Brief Overview of the FOIA*

- FOIA laws are spreading throughout the world; for example:
  - ✓ Canada introduced their FOIA in 1983
  - ✓ Chile's FOI took effect in 2000
  - ✓ United Kingdom implemented at the national level in 2000
  - ✓ Uruguay enacted in 2008





Office of Privacy &  
Open Government

Freedom of Information  
Act (FOIA) Program

# *Brief Overview of the FOIA*

- Legal or other authorities that apply to the FOIA:
  - General
    - ✓ Title 5, U.S.C., Section 552
    - ✓ Open Government Act
  - Census Bureau specific:
    - ✓ Title 15, Code of Federal Regulations, Subpart A
    - ✓ DAO 205-12 (Public Information)
    - ✓ DAO 205-14 (Processing Requests Under the FOIA)





Office of Privacy &  
Open Government

Freedom of Information  
Act (FOIA) Program

# *FOIA at DOC – Basics*





# Office of Privacy & Open Government

## Freedom of Information Act (FOIA) Program

# DOC FOIA Web Page



Commerce > Office of the Secretary > CFO/ASA > OPOG > FOIA

## Freedom of Information Act Program

The responsibility for the development and maintenance of Freedom of Information Act (FOIA) policies, procedures, and guidance is handled through the Office of Privacy and Open Government, FOIA Program. The FOIA Program Office is also responsible for oversight of the Department of Commerce's FOIA program.

The Department's FOIA operations are decentralized between 14 bureaus and operating units (BOUs). From this page, you can link to those BOUs and their electronic (on-line) FOIA libraries, learn about how the FOIA program is structured, and/or review our guidance and resources related to FOIA. You can also file and track the status of a request. The Department and its BOUs post a great deal of information on-line. If you are interested in making a request you may find the information you seek has already been posted. A good place to begin is in the [electronic FOIA Libraries](#).



### DEPARTMENT FOIA OFFICE

Department of Commerce Deputy Chief FOIA Officer and responsibilities, FOIA Mission Statement, and FOIA Council's authority and responsibilities.



### BOU FOIA PROGRAMS

The responsibility for the development and maintenance of FOIA policies, procedures, and guidance is handled through the Office of Privacy and Open Government, FOIA Program Office.



### The FOIA

The FOIA generally provides that any person has the right to request access to federal agency records or information except to the extent the records are protected from disclosure by any of nine exemptions contained in the law or by one of three special law enforcement record exclusions.

[Return to Top](#)



### FOIA REQUESTS

A FOIA request is a request submitted to a federal agency asking for access to agency records on any topic. A FOIA request can generally be made by any person, to any federal agency, and only requires that requesters reasonably describe the records they are seeking and comply with agency regulations for making such requests.



### ELECTRONIC FOIA LIBRARY

The electronic FOIA Library contains materials such as certain agency manuals, specific agency policy statements, and opinions developed in the adjudication of cases. The information you are requesting may be located in our FOIA Library. Please check the Library before submitting a FOIA request.



### FOIA REPORTS

All agencies are required by law to report to the Department of Justice on their FOIA compliance through submission of Annual FOIA Reports and Chief FOIA Officer Reports. All agencies are also required to provide quarterly reporting of four key FOIA statistics to the Department of Justice that will be posted on FOIA.gov.

[Return to Top](#)



### RESOURCES



### TRAINING



### Frequently Asked Questions (FAQ)



Office of Privacy &  
Open Government

Freedom of Information  
Act (FOIA) Program

## *FOIA Policy at DOC*

- The DOC policy is to implement the FOIA uniformly and consistently, and to provide maximum allowable disclosure of records.
- Requesters are treated equally under the FOIA; however, in some circumstances distinctions are made in order to determine:
  - ✓ fee category,
  - ✓ fee waiver requests, and
  - ✓ requests for expedited processing



Office of Privacy &  
Open Government

Freedom of Information  
Act (FOIA) Program

# *FOIA and OG at DOC*

- The FOIA Office within the Office of Privacy and Open Government (OPOG)
  - ✓ Policy and operational oversight of the DOC FOIA program
  - ✓ Chairs the DOC FOIA Council
  - ✓ Central clearinghouse for all DOC FOIA (and Privacy Act) requests
  - ✓ Responsible for processing all DOC FOIA (and Privacy Act) requests
  - ✓ Policy and operational oversight of the DOC Open Government program



Office of Privacy &  
Open Government

Freedom of Information  
Act (FOIA) Program

# *FOIA Roles at DOC*

- Deputy Chief FOIA Officer and Department Privacy Act Officer
  - ✓ Policy and Operational oversight of the DOC FOIA program
  - ✓ Chairs the DOC FOIA Council
  - ✓ Responsible for ensuring that DOC is compliant with the FOIA and the Privacy Act
  - ✓ Ensures that DOC is working efficiently on FOIA requests and appeals, and constantly improving how the DOC works with the FOIA





Office of Privacy &  
Open Government

Freedom of Information  
Act (FOIA) Program

# *FOIA Roles at DOC*



- **FOIA Public Liaison**

- ✓ Reports to the Chief FOIA Officer
- ✓ Serves as the supervisory official to whom a requester can raise concerns about the service the requester has received
- ✓ Responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes

- **FOIA Analysts**

- ✓ Responsible for processing FOIA and Privacy Act requests



Office of Privacy &  
Open Government

Freedom of Information  
Act (FOIA) Program

# *FOIA Roles at DOC*



- Open Government Program Manager
  - ✓ Reports to the Director, OPOG
  - ✓ Policy and operational oversight of the DOC Open Government Program
- Open Government Senior Leaders
  - ✓ Represent bureaus and operational units on Open Government matters



Office of Privacy &  
Open Government

Freedom of Information  
Act (FOIA) Program

# *FOIA – Keeping Sharp*

- Training is a priority at DOC
  - ✓ Staff attend multiple annual Department of Justice training offerings
  - ✓ Staff present monthly lunch and learn sessions on various FOIA topics to FOIA Officers and contacts during Council meetings to train those employees, but also to reinforce their knowledge of the FOIA and DOC policies
  - ✓ Internal FOIA Boot Camp Training Sessions for FOIA staff
- DOC Freedom of Information Act (FOIA) Handbook for FOIA Professionals





Office of Privacy &  
Open Government

Freedom of Information  
Act (FOIA) Program

# *FOIA – Keeping Sharp*

- Staff are members of professional society for access professionals—The American Society for Access Professionals (ASAP)
  - ✓ Attend annual training classes and network with other FOIA professionals
  - ✓ Take webinar courses via ASAP web site on specialized FOIA topics
- ✓ Weekly staff meetings at which FOIA topics are discussed and training exercises may take place





Office of Privacy &  
Open Government

Freedom of Information  
Act (FOIA) Program

# *FOIA – Exemption Used*

- The most used FOIA Exemptions:
  - ✓ Exemption 3 (55) – exempts from disclosure information prohibited from disclosure by another statute
  - ✓ Exemption 6 (23) – exemptions from disclosure information about individuals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, so long as that invasion is not outweighed by a public interest in disclosure
- Exemptions used by DOC last year: 2, 3, 4, 5, 6, 7A,7C





Office of Privacy &  
Open Government

Freedom of Information  
Act (FOIA) Program

# *FOIA – Optimizing Customer Service*





Office of Privacy &  
Open Government

Freedom of Information  
Act (FOIA) Program

# FOIA – Optimizing Customer Service

## FOIAonline

Email Address :  Password :  [SIGN IN](#) [FORGOT PASSWORD](#)

 [Glossary](#) [FAQs](#) [Resources](#) [About](#)

[Home](#) [Search](#) [Reports](#)

### FOIAonline



1 2 3 4 5

[SEARCH FOIA REQUESTS](#)

[MAKE A FOIA REQUEST](#)

[CREATE AN ACCOUNT](#)

Guest users are welcome to submit requests, search for previously released records, and generate reports, but guests will have limited tracking and communications features. Enhanced features are available to users with accounts.

**Benefits of an Account :** Sign up for a FOIA account today to receive the benefits of streamlined request creation and monitoring of created requests. [Create An Account](#)

#### FOIAonline

The Freedom of Information Act (FOIA) gives you the right to request information from federal agencies. From FOIAonline you can submit FOIA requests to all participating agencies, track the status of requests, search for requests submitted by others, access previously released records, and generate agency-specific FOIA processing reports.

FOIAonline participating agencies include: the Environmental Protection Agency, Department of Commerce (except the US Patent and Trademark Office), U.S. Customs and Border Protection, Office of General Counsel of the National Archives and Records Administration, Merit Systems Protection Board, Federal Labor Relations Authority, and the Pension Benefit Guaranty Corporation.

New: As of February 1, 2014, the Department of the Navy (including the Navy and the Marine Corps) joined FOIAonline as a participating agency. [A chart provides further details on the information available in FOIAonline by participating agency.](#)

Requests under the Privacy Act must be sent directly to the appropriate agency.



Office of Privacy &  
Open Government

Freedom of Information  
Act (FOIA) Program

## *FOIA – Optimizing Customer Service*

- Customer service line: (301) 482-3842
- Email: [efoia@doc.gov](mailto:efoia@doc.gov)
- BOU FOIA Officers and Contacts



Office of Privacy &  
Open Government

Freedom of Information  
Act (FOIA) Program

## *FOIA – Optimizing Customer Service*

- Customer service line: (301) 482-3842
- Email: [efoia@doc.gov](mailto:efoia@doc.gov)
- BOU FOIA Officers and Contacts



Office of Privacy &  
Open Government

Freedom of Information  
Act (FOIA) Program

# *Questions*