



Your Right to Federal Records

Questions
and Answers
on the Freedom
of Information Act
and the Privacy Act



United States Department of Justice

OFFICE OF INFORMATION LAW AND POLICY

WASHINGTON, D.C. 20530

Dear Reader:

This is a simple brochure about complicated subjects—the Freedom of Information Act and the Privacy Act of the U.S. Government.

Enacted by Congress in 1966, the Freedom of Information Act (FOIA) is rooted in the belief that Government records should be open to the people. Most of the time Federal agencies will respond to public inquiries, and there is no need to use the FOIA to have your questions answered. However, before enactment of the FOIA, individuals occasionally had to prove their right to look at Government records. The FOIA changes this. It shifts the burden of proof from the citizen to the Government. You no longer have to prove your need to see Government records. Now, by law you have the right to access—unless the Government can prove that the records you wish to see are “exempt” by law from that right (more about the exemptions later).

FOIA was intended for use by everyone. Yet today, the extensive use of the FOIA by lawyers and organizations has led to a growing mass of court decisions, regulations, articles, and other literature about FOIA. These materials are now too vast for even full-time specialists in FOIA work to read and digest completely. Thus, most people can certainly use practical help in exercising their rights under this law—help this booklet is designed to offer.

Closely related to the Freedom of Information Act is the Privacy Act, another Federal law regarding Government records. The Privacy Act gives individuals some control over how the Federal Government gathers, maintains, and disseminates personal information. The Privacy Act pertains only to records the Federal Government keeps on individual citizens and lawfully admitted resident aliens. The FOIA, on the other hand, pertains to all records of Federal agencies.

The questions answered in this brochure are those most frequently asked by persons who contact the Federal Information Centers (FIC's) throughout the country for information on the FOIA and Privacy Act. The answers were compiled by the staffs of the FIC and Consumer Information Center (CIC) of the General Services Administration. They were reviewed by the Department of Justice, the agency responsible for coordinating administration of the FOIA and encouraging agency compliance. The Office of Management and Budget, which has a similar responsibility for the Privacy Act, reviewed the answers to related questions on the Privacy Act.

We believe the brochure will give you accurate and useful information about the FOIA and Privacy Act in a clear, simple form. We hope you will find it helpful.

Sincerely,

A handwritten signature in cursive script that reads "Robert L. Saloschin".

Robert L. Saloschin
Director, Office of Information Law and Policy
U.S. Department of Justice

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	<i>Page</i>
The Freedom of Information Act	
What the Freedom of Information Act is and how to use it	1
The Privacy Act	
What the Privacy Act is and how to use it	5
A Comparison of the Freedom of Information Act and the Privacy Act	
Relationship between the two acts and deciding which to use	7
Other Sources of Information	8
Text of the Freedom of Information Act	10
Federal Information Centers	
Addresses and telephone numbers	15

The Freedom of Information Act

What does the Freedom of Information Act (FOIA) do?

It guarantees any person the right, enforceable in court, to look at all Federal agency records except for those specifically exempted in the Act. FOIA applies only to records of the executive branch of the Federal Government, not to those of the Congress or the Federal courts. It also does not apply to records of any State or local government or any private entity.

There are nine exemptions to the Act, or reasons an agency can withhold records from the public. They cover such material as (1) classified defense and foreign relations information, (2) internal agency personnel rules and practices, (3) material exempted by another statute from disclosure, (4) trade secrets and other confidential business information, (5) certain inter-agency or intra-agency communications, (6) personnel, medical, and other files involving personal privacy, (7) investigatory records compiled for law enforcement purposes, (8) matters relating to the supervision of financial institutions, and (9) geological information on oil wells. Although not required to do so, agencies often voluntarily release information that falls under an exemption unless they believe that disclosure is likely to cause harm. Interpretation of the Act—particularly of the exemptions—has raised many complex questions and disputes. Ultimately the courts decide whether an agency is properly withholding records under an exemption of the FOIA.

The Freedom of Information Act is printed in its entirety beginning on page 10.

What information may I request under FOIA?

Under FOIA, you may request and receive any record that is in Federal files and not covered by one of the exemptions. For example, suppose you have heard that a certain toy is being investigated as a safety hazard and want to know the details. In this case, the Consumer Product Safety Commission probably could help you. Or perhaps you want to read the latest inspection report on conditions at a nursing home certified for Medicare. Your local Social Security office keeps these records on file. Possibly you want to know if the Federal Bureau of Investigation has a file on you. In all these examples, you may use the FOIA to request information from the appropriate Federal agency (more later on how to find the right agency and address).

When you make an FOIA request, you must describe the material you want. If the agency cannot identify what you've requested with a reasonable amount of effort, it is under no obligation to you. It is not required to do research for you or to compile or analyze data.

What if I want information from a private business or a State or local government?

The FOIA does not apply to records that belong to a private business. Nor does it apply to the records of State or local government. However, nearly all State governments have their own FOIA's. You may request information about a State's act by writing the attorney general of the State.

Although FOIA does not cover private business records, many private

firms submit reports and other information to Federal agencies. This is often necessary to do business with the Government, to receive subsidies or licenses, or to engage in certain kinds of activity. Agencies usually withhold confidential commercial material that is contained in such reports. However, if the private firm has no objections, most agencies will provide such material to you. In addition, Federal agencies may release some information from business firms even if the firm objects; *i.e.*, if the information cannot be legally withheld. The FOIA does not require a private firm to release any information or records directly to you.

Whom do I contact in the Federal Government with my request? How do I get the right address?

No one office handles all FOIA requests. Each request for information must be made to the appropriate agency. For example, if you want to know about an investigation of motor vehicle defects, write to the Department of Transportation. Or, if you want information about a work-related accident at a nearby job site or manufacturing plant, write to the Department of Labor (at the office in the region where the accident occurred). Some of the larger departments and agencies have several Freedom of Information offices. Some have one for each major bureau or other component; others have one for each region of the country.

You may have to do a little research to find the proper office to handle your inquiry, but you will save time in the long run if you send your request directly to the appropriate office. For assistance you can contact the nearest Federal Information Center (FIC). Located throughout the country, the FIC's are specially prepared to help you

find the right agency, the right office, and the right address. These centers are operated by the General Services Administration. A list of FIC addresses and telephone numbers begins on page 15. Also, a booklet called the *Consumer's Resource Handbook* tells what Federal agencies are responsible for specific consumer problems and where to write for assistance. (The *Handbook* is available free of charge; see page 8 for ordering instructions.) The *U.S. Government Manual*, the official handbook of the Federal Government, may also be useful. It describes the programs within each Federal agency and lists the names of top personnel and agency addresses. The *Manual* is available at most public libraries or can be purchased from the Superintendent of Documents (ordering instructions on page 8).

How do I request information under FOIA?

When you get the agency's name and address, write a letter of request to the agency's Freedom of Information Office. (Note on the envelope and at the top of the letter "Freedom of Information Request.") Identify the records you want as accurately as possible. Although you do not have to give the document's name or title, your request must reasonably describe the records sought. Any facts or clues which you can furnish about the time, place, persons, events, subjects, or other details of the information or records you seek will be helpful to agency personnel in deciding where to search and in determining which records pertain to your request. This may save you and the Government time and money and also improve your prospects of getting what you want.

the right agency, the right office, the right address. These centers are headed by the General Services Administration. A list of FIC addresses and phone numbers begins on page 15. A booklet called the *Consumer's Choice Handbook* tells what Federal agencies are responsible for specific problems and where to write for assistance. (The *Handbook* is available for a charge; see page 8 for ordering instructions.) The *U.S. Government Directory*, the official handbook of the Federal Government, may also be consulted. It describes the programs within each Federal agency and lists the names of key personnel and agency addresses. The *Handbook* is available at most public libraries or can be purchased from the Superintendent of Documents (ordering instructions on page 8).

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When you get the agency's name and address, write a letter of request to the agency's Freedom of Information Officer. Note on the envelope and at the top of the letter "Freedom of Information Request." Identify the records you are seeking as accurately as possible. Although you do not have to give the document's name or title, your request must reasonably describe the records sought. Any facts or clues which you can furnish about the time, place, persons, events, dates, or other details of the information records you seek will be helpful to agency personnel in deciding where to look and in determining which records pertain to your request. This may save time and the Government time and money. Also improve your prospects of getting what you want.

A sample request letter is shown below. Keep a copy of your request. You may need it in the event of an appeal or if your original request is not answered.

If you are not sure whether the information you want falls under one of the nine exemptions, you may request it anyway. It might help your case to state your reasons for such a request, even though the FOIA does not require you to do so. Agencies usually have discretion to release material that falls under these exemptions. Stating your reasons for a request may persuade an agency to give you access to records they might

otherwise deny as legally exempt. In addition, giving reasons for a request may help the agency locate information which is useful to you.

What about costs for getting records under FOIA?

An agency may charge only for the cost of searching for the material and the cost of copying. Searching fees usually run from \$4 to \$10 per hour; the rates generally reflect salary levels of the personnel needed for the search. The charge for copying letter-size and legal-size pages can run up to 25 cents apiece, but 10 cents per page is common in most agencies. If you wish to avoid

Freedom of Information Act Request
Date

Agency Head or FOIA Officer
Name of agency or agency component
Address (see discussion above on whom to contact)

Dear --- :

Under the Freedom of Information Act, 5 U.S.C. 552, I am requesting access to or copies of (identify the records as clearly as possible).

If there are any fees for copying or searching for the records, please let me know before you fill my request. (Or . . . please supply the records without informing me of the cost if the fees do not exceed \$ _____.)

[Optional] I am requesting this information because (state the reason if you think it will help you obtain the information).

If you deny all or any part of this request, please cite the specific exemption you think justifies your refusal to release the information and notify me of appeal procedures available under the law.

[Optional] If you have any questions about handling this request, you may telephone me at _____ (home phone) or at _____ (office phone).

Sincerely,

Name
Address

copying charges, you may request to visit the agency in person to see the records.

Some agencies waive charges if the total cost is minimal. You may receive a waiver or reduction in fees if you request it and can show the information you are seeking will, when released, primarily benefit the general public. There is no requirement for uniform fees among the agencies.

How long will it take to answer my request?

Federal agencies are required to answer your request for information within 10 working days of receipt (excluding Saturdays, Sundays, and holidays). If you have not received a reply by the end of that time (be sure to allow for mailing time), write a followup letter or telephone the agency to ask about the delay.

Sometimes, an agency may need more than 10 working days to find the records, examine them, possibly consult other persons or agencies, and decide whether it will disclose the records requested. If so, the agency is required to inform you in writing before the deadline. They have the right to extend up to 10 more working days.

A few agencies sometimes receive unexpectedly large numbers of requests. If an agency has a backlog of requests that were received before yours and has assigned a reasonable portion of its staff to work on the backlog, the agency usually will handle requests on a first-come, first-served basis.

What happens if the agency refuses to give me the information?

An agency normally will deny an FOIA request only if it has a serious practical problem with granting it, supported by a legal reason for denial (an exemption). If an agency denies your re-

quest, it must be able to prove that the information is covered by one of the nine exemptions listed in the Act. The agency must give you the reason (exemption) for denial in writing and inform you of your right to appeal the decision.

How do I appeal a denial?

You should promptly send a letter notifying the agency that you want to appeal. Most agencies require that appeals be made within 30 to 45 days after you get a notification of denial. The denial letter should tell you to whom your appeal letter should be addressed. Simply ask the agency to review your FOIA request and change its decision. It is a good idea also to give your reasons for believing the denial was wrong. Be sure you refer to all communications you have had on the matter. It will save time in acting on your appeal if you include copies of the original request for information and the agency's letter of denial.

The agency has 20 working days after it receives your appeal letter to respond. Under certain circumstances, it may take an extension of up to 10 working days. If, however, an agency took 10 extra days to deny your initial request, it would not be entitled to an extension on the appeal.

What can I do if my appeal is rejected?

If you are willing to invest the time and money, you may take the case to court. You can file suit in the U.S. District Court where you live, where you have your principal place of business, where the documents are kept, or in the District of Columbia. The agency will have to prove that the withheld records, or the deleted parts of them, are covered by one of the exemptions listed in the Act. If you win a substantial portion of your case, the court may require the Government to pay court costs and reasonable attorney's fees for you.

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What does the Privacy Act do?

The Federal Government often compiles information on individuals. For example, if you were ever in the military service or employed by a Federal agency, there are records of your service. If you have ever applied for a Federal grant or received a student loan certified by the Government, there is a file. There are records on every individual who has ever paid income taxes or received a check from Social Security or Medicare.

The Privacy Act, passed by Congress in 1974, gives citizens some control over what personal information is collected by the Federal Government and how it is used. The Act guarantees two basic rights: the right to see files about yourself, and the right to sue the Government for permitting others to see your files without your permission or knowledge. Both of these rights are subject to a number of exceptions.

What information may I request under the Privacy Act?

The Act applies only to documents about individuals maintained by agencies in the executive branch of the Federal Government. It applies to such records only if they are in a "system" of records, which means they can be retrieved by name, social security number, or other identifier. In other words, the Act does not apply to information about individuals in records that are filed under other subjects, such as organizations or events, unless the agency routinely retrieves them by name, etc. Also, the Act does not apply to records held by local governments or private organizations.

There are seven exemptions to the Privacy Act under which an agency can withhold certain kinds of information from you. Examples of exempt records are those containing highly sensitive in-

formation on national security or ongoing criminal investigations. Another exemption often used by agencies is that which protects information that would identify a confidential source. For example, if an investigator questions a person about your qualifications for Federal employment and that person agrees to answer only if his identity is protected, then his name or any information that would identify him could be withheld. The seven exemptions are listed in the Act. If you are interested in more details, you may read the Privacy Act in its entirety. It is printed in both the *U.S. Government Manual* and the *U.S. Code* (Section 552a of Title 5), which are available in most public and school libraries. You may also order a copy of the Privacy Act, Public Law 93-579, from the Superintendent of Documents (ordering instructions on page 8), since it is too lengthy to publish as part of this brochure.

Whom do I contact in the Federal Government with my request? How do I get the right address?

As with the FOIA, no one office handles all Privacy Act requests. To locate the proper agency to handle your request, follow the same guidelines as for the Freedom of Information Act. (See page 2.)

How do I request information under the Privacy Act?

Write a letter to the agency that has your file. Address your request to the Privacy Act Officer or head of the agency, such as "Secretary, Department of Health and Human Services." Be sure to write "Privacy Act Request" clearly on both the letter and the envelope.

Most agencies require some proof of identity before they will give you your records. So, it is a good idea to enclose proof of identity (such as a copy of your driver's license) with your full name and

address. **Do not send the original documents.** Remember to sign your request for information, since your signature is a form of identification. (A notarized signature is even better.) If an agency needs more proof of identity before releasing your files, it will let you know.

What about costs for getting records under the Privacy Act?

An agency can charge only for the cost of copying personal records about you, not for time spent locating them. You may avoid copying charges by requesting to visit the agency in person to see the records.

How long will it take to answer my request?

Under the terms of the Privacy Act, the agency is not required to reply to such a request within a given period of time, although some agencies have adopted time limits similar to the FOIA 10-day response time, by regulation. If you do not receive any response within 2 weeks, write again, enclosing a copy of your original request.

How do I know if an agency has a file on me?

If you think a particular agency has your file, you should write to the Privacy Act Officer or head of the agency. Agencies are generally required to inform you upon request whether or not they have files on you. In addition, agencies are required to report publicly the existence of all records systems they keep on individuals. The Office of the Federal Register annually compiles and publishes (or updates) a list of systems and any exemptions that apply to each. This multi-volume work, called the *Privacy Act Issuances Compilation*, is available at most large reference and university libraries or can be purchased from the Superintendent of Documents (ordering instructions on page 8).

Most agencies require that you specify the systems of records you wish to have searched. If you do not know which systems to specify, give as much information as possible as to why you believe the agency has records about you. The agency should process your request or contact you for additional information.

What if I find that a Federal agency has incorrect information about me in the files?

The Privacy Act requires agencies that keep records containing personal information about individuals to maintain complete, accurate, and relevant files. If, after seeing your file, you believe facts are incorrect and should be amended, write to the agency official who released the record to you. Include any documentation for the changes you are requesting. The agency will let you know if further proof is needed. The Act requires an agency to respond to such a request within 10 working days of receipt and to tell you precisely what will be done to amend the records. You may appeal any denial. Even if an agency also denies your appeal, you have the right to submit a statement explaining why you think the record is wrong. The agency will attach your statement to the record involved.

What recourse do I have if I am denied information requested under the Privacy Act?

There is no standard procedure for Privacy Act appeals, but the agency should advise you of its own appeal procedure when it makes the denial. Should the agency deny your appeal, you may take the matter to court. If you win your case, you may be awarded attorney's fees.

A Comparison of the Freedom of Information Act and the Privacy Act

t agencies require that you specify items of records you wish to have. If you do not know which records to specify, give as much information as possible as to why you believe the agency has records about you. The agency should process your request or refer you for additional information.

What if I find that a Federal agency has records that contain information about me in the Privacy Act?

Privacy Act requires agencies that maintain records containing personal information about individuals to maintain accurate, complete, and relevant files. If you believe the information in your file is incorrect and should be amended, you should request the agency official who released the record to you. Include any documentation for the changes you are requesting. The agency will let you know if further proof is needed. The Act requires the agency to respond to such a request within 10 working days of receipt and to tell you precisely what will be done to correct the records. You may appeal any denial. Even if an agency also denies your appeal, you have the right to submit a statement explaining why you think the agency's denial is wrong. The agency will attach your statement to the record involved.

What recourse do I have if I am denied access to information requested under the Privacy Act?

There is no standard procedure for Privacy Act appeals, but the agency should advise you of its own appeal procedure when it makes the denial. Should the agency deny your appeal, you may take the matter to court. If you win your case, you may be awarded attorney's

What is the relationship between the Freedom of Information Act and the Privacy Act?

Although the two laws were enacted for different purposes, there is some similarity in their provisions. Both the FOIA and the Privacy Act give people the right of access to records held by agencies of the Federal Government. FOIA's access rights are given to "any person," but the Privacy Act's access rights are only for the individual who is the subject of the records sought. FOIA applies to all records of Federal agencies; the Privacy Act applies only to a majority of those Federal agency records which contain information about individuals. Each act has a somewhat different set of fees charged, time limits, and exemptions from its rights of access. If you request records about yourself, Federal agencies may withhold them from you only to the extent the records are exempt under both acts.

Which act should I use to get access to records?

If the information you want concerns activities of Federal agencies or another person, make your request under the FOIA, which covers all agency records. If the information you want is about yourself and you wish to avoid possible search fees, make the request under the Privacy Act, which covers most records of agencies that pertain to individuals. To maximize the chances of getting all the available information about yourself, getting it quickly, and with only a slight possibility of incurring a search fee, make the request under both acts. Sometimes you can use the FOIA to help you get records about yourself that are not in a Privacy Act "system." However, if the records you seek are covered only by the FOIA, you must be able to "reasonably describe" them and

you may be charged search fees. If you are in doubt about which act applies or would better suit your needs, you should probably base your request letter on both acts.

The FOIA contains one very important provision concerning privacy—Exemption 6. It may protect you from others seeking information about you, but may block you if you seek information about others. FOIA Exemption 6 permits an agency to withhold information about individuals if disclosing it would be a "clearly unwarranted invasion of personal privacy." This includes, for example, most of the information in medical and personnel files.

Exemption 6 cannot be used to deny you access to information about yourself, only to deny you information about other persons. To be covered by Exemption 6, the information requested must be (a) about an identifiable individual, (b) an invasion of the individual's privacy if disclosed to others, and (c) "clearly unwarranted" to disclose. Release of information about an individual is considered an invasion of privacy if he could reasonably object because of its intimacy or its possible adverse effects upon himself or his family. But such information is not protected by Exemption 6 if the injury to the individual is counterbalanced by a public interest favoring the release. For example, home addresses are exempt from release for unspecified or random uses such as commercial solicitation, but are not exempt from release to State income tax authorities for State law enforcement. If you were seeking information about a Federal employee's working status, an agency usually will disclose his or her name, grade, salary, job title, and permanent work location, but an agency will not usually disclose similar informa-

tion about an employee of a private business. Even Federal employees, however, receive some privacy protection. For example, if you want to see the details of

an investigative report which led to an employee's demotion, an agency might decide that disclosure of these details is not justified on public interest grounds.

Other Sources of Information

Consumer's Resource Handbook

Published by the U.S. Office of Consumer Affairs, this comprehensive booklet tells consumers how to complain and get results. It lists the Federal agencies which are responsible for resolving particular consumer problems and tells where help is available in State and local governments and private organizations. Single copies are free and may be obtained by writing the Consumer Information Center, Dept. 619J, Pueblo, CO 81009.

U.S. Government Manual

This is the official handbook of the Federal Government. Published by the U.S. General Services Administration, it describes the programs in each Federal agency, lists the names of top personnel, the mailing address, and a general information telephone number. It is available in most public libraries or can be purchased for \$8.50 by sending a check or money order to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Please specify stock number 022-003-01052-1.

Privacy Act

This Act gives citizens the right to see files about themselves and the right to sue the Government for permitting others to see their files without their knowledge and permission. A complete copy of the Privacy Act can be found in the back of the *U.S. Government Manual*. It can also be found as Section 552a of Title 5 of the *U.S. Code*. Or you may order a copy of the Privacy Act, Public Law 93-579, from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, for 35 cents. Specify stock number 022-003-90866-8.

Privacy Act Issuances Compilation

Annually each Federal agency publishes descriptions of its systems of records that contain information on individuals. These descriptions are collected from all the agencies in a publication entitled *Privacy Act Issuances Compilation*, which shows the data covered in each system and lists the categories of people to whom the information pertains. The 1979 *Compilation* consists of four volumes, which are for sale separately. (Price per volume is \$9 50 to

investigative report which led to an employee's demotion, an agency might disclose that disclosure of these details is justified on public interest grounds.

\$10.) A fifth volume of research aids is available for \$4. The entire set may be purchased for \$43 from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The Superintendent of Documents will help you identify the volumes you need if you indicate the agencies in which you are interested. Or, you may find a complete set of the *Compilation* available as a reference at all Federal Information Centers (addresses on page 15) and in most reference and university libraries.

A Citizen's Guide on How To Use the Freedom of Information Act and the Privacy Act in Requesting Government Documents

This booklet, written by the Committee on Government Operations, U.S. House of Representatives, is a much more detailed explanation of the Freedom of Information Act and the

Privacy Act than this brochure. It may be purchased for \$3 from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Please specify stock number 052-071-00540-4.

A Short Guide to the Freedom of Information Act

This was written by three Government lawyers with extensive experience in the field and revised in 1979 and again in 1980. Especially useful to attorneys, it is a comprehensive summary of the law, including a discussion of the nine FOIA exemptions. It is included in the *Freedom of Information Case List, September 1980 Edition*, which may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, for \$5. Please specify stock number 027-000-01057-1.

Privacy Act

The Privacy Act gives citizens the right to see about themselves and the right to sue the Government for permitting disclosure of their files without their knowledge and permission. A complete guide to the Privacy Act can be found in the *U.S. Government Information Manual*. It can also be found as Section 552 of Title 5 of the *U.S. Code*. Or you may order a copy of the Privacy Act from Public Law 93-579, from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, for 35 cents. Specify stock number 022-003-90866-8.

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Text of the Freedom of Information Act

§ 552. Public information; agency rules, opinions, orders, records, and proceedings.

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which the forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations have been adopted by the agency and are not published in the Federal Register; and

(C) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines

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by order published in the Federal Register that the publication would be unnecessary and impracticable, in which case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) the party has actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records which (A) reasonably describes such records and (B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(4) (A) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees applicable to all constituent units of such agency. Such fees shall be limited to reasonable standard charges for document search and duplication and provide for recovery of only the direct costs of such search and duplication. Documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter do novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

(D) Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with

respect to the withholding, the Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Counsel, after investigation and consideration of the evidence submitted shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Counsel recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member.

(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6) (A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall—

(i) determine within ten days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

(B) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this subparagraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request—

(i) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(C) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and

promptly initiate a proceeding against the officer withholding. The Special evidence submitted shall be under the administrative authority of the agency and recommendations shall be made by the administrative authority which recommended the records.

of the court, the district judge, and in the case of a

shall maintain and make known the votes of each member in

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days, Sundays, and legal holidays, whether by making such request of such person to the right of such person to be heard; and

appeal within twenty days (excluding holidays) after the receipt of records is in whole or in part, or by making such request of the agency under paragraph (4) of

subparagraph, the time for the making of such request setting forth the reasons for such determination is expected to be that would result in an order under this subparagraph, it is reasonably necessary to

records from field facilities for processing the request; to examine a voluminous record contained in a single request;

acted with all practicable speed in the determination of the agency having substan-

records under paragraph (a) have exhausted his administrative authority. If the Government can show that the agency is exercising due diligence to retain jurisdiction and

allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(b) This section does not apply to matters that are—

(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps, concerning wells.

Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection.

(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

(d) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include—

(1) the number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(2) the number of appeals made by persons under subsection (a) (6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(3) the names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;

(4) the results of each proceeding conducted pursuant to subsection (a) (4) (F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(5) a copy of every rule made by such agency regarding this section;

(6) a copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and

(7) such other information as indicates efforts to administer fully this section.

The Attorney General shall submit an annual report on or before March 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each case, the disposition of such case, and the cost, fees, and penalties assessed under subsections (a) (4) (E), (F), and (G). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(e) For purposes of this section, the term "agency" as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 383; Pub. L. 90-23, § 1, June 5, 1967, 81 Stat. 54; Pub. L. 93-502, §§ 1-3, Nov. 21, 1974, 88 Stat. 1561-1564; Pub. L. 94-409, § 5(b), Sept. 13, 1976, 90 Stat. 1247; Pub. L. 95-454, § 906(a) (10), Oct. 13, 1978, 92 Stat. 1225.)

Federal Information Centers

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Federal Information Centers are
in 41 metropolitan areas across the
country. You may call or write any of
them for aid in contacting the proper
Federal agency with your Freedom of
Information Act or Privacy Act request.

If you write, address your letter to the
Federal Information Center at the
closest of the mailing addresses listed
below.

If you phone, you can contact a Cen-
ter toll-free if you live in any of the
cities listed below or in a State with an
800 area code number shown. If you live
elsewhere, call the city listing closest to
you for a minimum long-distance
charge.

For example, if your home is in Ari-
zona and is nearer Tucson than Phoe-
nix, call the number for Tucson even
though the actual Center office is in
Phoenix. You will be charged only for a
long-distance call to Tucson.

Mailing Addresses

Alaska

Federal Building and U.S. Courthouse
701 C St.
Anchorage, AK 99513

Arizona

Federal Building
230 North First Ave.
Phoenix, AZ 85025

California

Federal Building
300 North Los Angeles St.
Los Angeles, CA 90012
Federal Building and U.S. Courthouse
650 Capitol Mall
Sacramento, CA 95814
Federal Building, Room 1S11
880 Front St.
San Diego, CA 92188

Federal Building and U.S. Courthouse
450 Golden Gate Ave., P.O. Box 36082
San Francisco, CA 94102

Colorado

Federal Building
1961 Stout St.
Denver, CO 80294

District of Columbia

Room 5716
Seventh and D Sts., SW.
Washington, DC 20407

Florida

Federal Building
51 Southwest First Ave.
Miami, FL 33130
William C. Cramer Federal Building
144 First Ave., South
St. Petersburg, FL 33701

Georgia

Federal Building and U.S. Courthouse
75 Spring St., SW.
Atlanta, GA 30303

Hawaii

Federal Building
300 Ala Moana Blvd.
P.O. Box 50091
Honolulu, HI 96850

Illinois

Room 250
Everett McKinley Dirksen Building
219 South Dearborn St.
Chicago, IL 60604

Indiana

Federal Building
575 North Pennsylvania
Indianapolis, IN 46204

Iowa

Federal Building
210 Walnut Street
Des Moines, IA 50309

Kansas

Federal Building and U.S. Courthouse
444 SE. Quincy
Topeka, KS 66683

Kentucky

Federal Building
600 Federal Place
Louisville, KY 40202

Louisiana

Room 100
U.S. Custom House
423 Canal Street
New Orleans, LA 70130

Maryland

Federal Building
31 Hopkins Plaza
Baltimore, MD 21201

Massachusetts

Room E-130
J.F.K. Federal Building
Cambridge St.
Boston, MA 02203

Michigan

Room 103
McNamara Federal Building
477 Michigan Ave.
Detroit, MI 48226

Minnesota

Federal Building and U.S. Courthouse
110 South 4th St.
Minneapolis, MN 55401

Missouri

Federal Building
601 East Twelfth St.
Kansas City, MO 64106
Federal Building
1520 Market St.
St. Louis, MO 63103

Nebraska

U.S. Post Office and Courthouse
215 North 17th St.
Omaha, NE 68102

New Jersey

Federal Building
970 Broad St.
Newark, NJ 07102

New Mexico

Federal Building and U.S. Courthouse
500 Gold Ave., SW.
Albuquerque, NM 87102

New York

Federal Building
111 West Huron
Buffalo, NY 14202
Room 1-114
Federal Building
26 Federal Plaza
New York, NY 10278

Ohio

Federal Building
550 Main St.
Cincinnati, OH 45202
Federal Building
1240 East Ninth St.
Cleveland, OH 44199

Oklahoma

U.S. Post Office and Courthouse
201 Northwest Third St.
Oklahoma City, OK 73102

Oregon

Room 109
Federal Building
1220 Southwest Third Ave.
Portland, OR 97204

Pennsylvania

Federal Building
600 Arch St.
Philadelphia, PA 19106
Federal Building
1000 Liberty Ave.
Pittsburgh, PA 15222

Tennessee

Clifford Davis Federal Building
167 North Main St.
Memphis, TN 38103

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Building
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see
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rth Main St.
is, TN 38103

Texas
Lanham Federal Building
819 Taylor St.
Fort Worth, TX 76102
Federal Building and U.S. Courthouse
515 Rusk Ave.
Houston, TX 77208

Utah
Room 1205
Federal Building
125 South State St.
Salt Lake City, UT 84138

Virginia
Room 120
Federal Building
200 Granby Mall
Norfolk, VA 23510

Washington
Federal Building
915 Second Ave.
Seattle, WA 98174

Telephone Numbers

Alabama
Birmingham (205) 322-8591
Mobile (205) 438-1421

Alaska
Anchorage (907) 271-3650

Arizona
Phoenix (602) 261-3313
Tucson (602) 622-1511

Arkansas
Little Rock (501) 378-6177

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Los Angeles (213) 688-3800
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San Diego (714) 293-6030
San Francisco (415) 556-6600
San Jose (408) 275-7422
Santa Ana (714) 836-2386

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Colorado Springs (303) 471-9491
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Pueblo (303) 544-9523

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Hartford (203) 527-2617
New Haven (203) 624-4720

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Miami (305) 350-4155
Orlando (305) 422-1800
St. Petersburg (813) 893-3495
Tampa (813) 229-7911
West Palm Beach (305) 833-7566
Northern Florida (800) 282-8556
(Sarasota, Manatee, Polk, Osceola,
Orange, Seminole, and Volusia
counties and north)
Southern Florida (800) 432-6668
(Charlotte, De Soto, Hardee,
Highlands, Okeechobee, Indian River,
and Brevard counties and south)

Georgia
Atlanta (404) 221-6891

Hawaii
Honolulu (808) 546-8620

Illinois
Chicago (312) 353-4242

Indiana
Gary/Hammond (219) 883-4110
Indianapolis (317) 269-7373

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Other locations (800) 532-1556

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St. Louis (314) 425-4106

Other locations within area code 314
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Other locations within area codes 816
and 417 (800) 892-5808

Nebraska

Omaha (402) 221-3353

Other locations (800) 642-8383

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Paterson/Passaic (201) 523-0717

Trenton (609) 396-4400

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Albuquerque (505) 766-3091

Santa Fe (505) 983-7743

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San Antonio (512) 224-4471

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Roanoke (703) 982-8591

Washington

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Tacoma (206) 383-5230

Wisconsin

Milwaukee (414) 271-2273