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Procedures (SOP) (Records are undated)

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OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE  
WASHINGTON, DC

September 27, 2024

Reference: ODNI Case No. DF-2022-00270

This letter responds to your Freedom of Information Act (FOIA) request, received on 17 May 2022 by the Office of the Director of National Intelligence (ODNI), requesting internal SOPs for FOIA administration at ODNI, as mentioned in the 2022 Chief FOIA Officer's Report.

This request was processed under the FOIA, 5 U.S.C. § 552, as amended. ODNI located eight documents responsive to this request and considered the foreseeable harm standard as part of the review process. As a result, one document may be released in full, and the remaining seven may be released in part with certain portions withheld pursuant to the following FOIA exemptions:

- (b)(3), which applies to information exempt from disclosure by statute. Specifically, the National Security Act of 1947, as amended:
  - Section 102A(i)(1), 50 U.S.C. § 3024(i)(1), which protects information pertaining to intelligence sources and methods; and/or
  - Section 102A(m), as amended, 50 U.S.C. § 3024(m), which protects, among other things, the names and identifying information of ODNI personnel.
- (b)(5), which applies to information that concerns communications within or between agencies that are protected by legal privileges.
- (b)(6), which applies to information that, if released, would constitute a clearly unwarranted invasion of the personal privacy of individuals.

If you are not satisfied with this response, a number of options are available. Please note, we have updated our email addresses. You may contact me, the FOIA Public Liaison, at ODNI\_FOIA\_Liaison@odni.gov, or the ODNI Requester Service Center, at ODNI\_FOIA@odni.gov or (703)-275-1313. You may also submit an administrative appeal to the Chief FOIA Officer, c/o Chief, Information Management Office, Office of the Director of National Intelligence, Washington, DC 20511 or emailed to ODNI\_FOIA@odni.gov. The appeal correspondence should be clearly marked "Freedom of Information Act Appeal of Adverse Determination" and must be postmarked or electronically transmitted within 90 days of the date of this letter.

Lastly, the Office of Government Information Services (OGIS) of the National Archives and Records Administration is available with mediation services and can be reached by mail at 8601 Adelphi Road, Room 2510, College Park, MD 20740-6001; telephone (202) 741-5770; toll-free (877) 684-6448; or email at [ogis@nara.gov](mailto:ogis@nara.gov).

Sincerely,

*KCZ for*  
Gregory Koch

Chief, Information Management Office  
FOIA Public Liaison

**ENCLOSURE**

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## **FOIA PROCEDURES AND BEST PRACTICES GUIDE**

The Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, as amended, is a federal disclosure statute requiring federal agencies to disclose all agency records<sup>1</sup> within their possession to any person<sup>2</sup> upon request, except to the extent that any portions of such records are protected from public disclosure by one or more of nine exemptions, or one or more of three specific law enforcement exclusions. The Office of the Director of National Intelligence’s (“ODNI’s”) FOIA Branch, Office of the General Counsel (“OGC”), and ODNI components play an integral role in ensuring that FOIA requests submitted to ODNI are processed in accordance with the statute. ODNI’s FOIA regulation (32 C.F.R. § 1700) govern ODNI’s processing of FOIA requests and administrative appeals. This document identifies specific responsibilities and establishes “best practices” for responding to FOIA requests submitted to the ODNI.

- Chapter 1: Roles and Responsibilities**
- Chapter 2: Processing FOIA Requests**
- Chapter 3: Correspondence with Requesters**
- Chapter 4: Appealed FOIA Requests**
- Chapter 5: FOIA Requests in Litigation**
- Appendix A: Sample Acknowledgement Letter**
- Appendix B: Sample FOIA Search Tasker**
- Appendix C: Sample FOIA Response Letter**

<sup>1</sup> A record includes any information that would be an agency record subject to the requirements of FOIA when maintained by an agency in any format, including in electronic format; and any such information that is maintained for an agency by an entity under U.S. Government contract, for the purposes of records management. See 5 U.S.C. § 552(f)(2)(A). Records include emails, hard and soft copy documents, drafts, etc., whether unclassified or classified.

<sup>2</sup> Any person, regardless of citizenship, may make a request for records under FOIA. However, because ODNI is an element of the Intelligence Community as defined in the National Security Act of 1947, as amended (50 U.S.C. §3003(4)(A)), ODNI must not provide records to a foreign government entity or representative. See 5 U.S.C. § 552(3)(E). FOIA provides for three categories of requesters: (1) commercial use requesters; (2) educational institutions, non-commercial scientific institutions, and representatives of the news media; and (3) all requesters who do not fall within either of the preceding two categories. See 5 U.S.C. § 552(a)(4)(A)(ii)(I)-(III).

## Chapter 1: Roles and Responsibilities

### FOIA Branch

The ODNI/Strategy & Engagement/Information Data Office/Information Management Division's ("IMD's") FOIA Branch is the primary component within ODNI responsible for implementation of the FOIA. Specifically, the FOIA Branch:

1. Reviews FOIA requests<sup>3</sup> and drafts and issues agency correspondence with requesters.
2. Upon receipt of a FOIA request, engages in initial discussions with the requestor to clarify and/or narrow the scope of the request, if necessary, unless the request is the subject of litigation.
3. Identifies all ODNI components that are likely to have responsive records.
4. Tasks FOIA search requests to all ODNI components likely to have responsive records.
5. Provides guidance to ODNI components during searches, as necessary.
6. Conducts responsiveness reviews, with OGC guidance, as necessary.
7. Consults with ODNI components on the use of appropriate FOIA exemptions.
8. Coordinates with IMD/Classification Management Branch, as necessary, to ensure that records are currently and accurately classified, or unclassified if the records or portions thereof are to be released to the requester.
9. Coordinates processing with Intelligence Community (IC) and non-IC elements on records that involve their equities.
10. Makes final determinations regarding the application of applicable FOIA exemptions, unless a request is the subject of litigation.
11. Maintains complete records containing all open and closed FOIA requests (to include those

<sup>3</sup> In the event the FOIA Branch believes it has received a request by a party in litigation – FOIA or otherwise – on the same subject matter, please contact OGC for additional guidance.

in litigation), with associated agency correspondence in a manner consistent with ODNI's Records Control Schedule, for at least six years from the date of the final determination on the request.

12. Maintains for each FOIA request a separate internal case notes document that reflects (1) the name of the case and ODNI FOIA number; (2) the date of the request and the date of receipt by ODNI; (3) a summary of the request; (4) background notes relevant to the request; (5) processing notes, to include the date of activity, summary of the activity (including, but not limited to, searches, consultations, fee category or processing determinations, application of exemptions), any relevant outcomes, and the name of the FOIA Case manager who made the entry.
13. Provides training to ODNI components on processing and handling FOIA requests.
14. Posts to the ODNI FOIA reading room on [www.ODNI.gov](http://www.ODNI.gov) copies of all records that have been released to any person (aka the 'Release to All Program'), unless they are in litigation and do not contain Privacy Act concerns.
15. Drafts the Annual FOIA Report and Chief FOIA Officer Report for internal coordination and approval before submission to the Department of Justice ("DoJ").
16. Provides relevant and necessary material from the FOIA case file to the ODNI FOIA appeals authority for their review in the event of an administrative appeal.

### **ODNI Components**

All ODNI components will:

1. Designate a FOIA point of contact ("POC") and a backup POC who are responsible for ensuring that all tasked FOIA searches are conducted in accordance with procedures and guidance established by the FOIA Branch, as outlined in this document.

2. Conduct a timely search for records, as tasked by the FOIA Branch.
3. Note ODNI equities, including any classified information, intelligence sources and methods, sensitive unclassified information, privileged information, as well as possible other agency(ies') equities in potentially responsive records, and provide such information and the corresponding records (regardless of sensitivities or classification) to the FOIA Branch.
4. Provide information about how searches were conducted (For additional information, see Chapter 2: Conducting the FOIA Search, #10).

## **OGC**

ODNI/OGC's responsibilities include:

1. Provides legal guidance to the FOIA Branch and ODNI components, as needed.
2. Serves as agency counsel in FOIA litigation matters and coordinates with IC and non-IC agency counsel, as appropriate.
3. Coordinates with the FOIA Branch on FOIA litigation matters to ensure production of records in accordance with court-ordered deadlines.
4. Maintains shared FOIA litigation calendar for coordination with the FOIA Branch.
5. Drafts FOIA litigation declarations for the Director of IMD's review and signature for court submission.

## **Chapter 2: Processing FOIA Requests**

### **Time Limits and Clarification/Narrowing**

1. Under FOIA, agencies have 20 business days to process FOIA requests. However, under "unusual circumstances," agencies have an additional 10 business days to process requests. Unusual circumstances include:



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- a. The need to search for, collect, and review a voluminous amount of records, or
  - b. Requests requiring consultations with other federal agencies.
2. If the FOIA request, as written, would not allow the Case Manager to reasonably ascertain which records are being requested, or if the request is unduly burdensome, the FOIA Branch should contact the requester immediately, and prior to tasking ODNI components to conduct a search, to clarify or attempt to narrow the scope of the request. This should be done within the first 20 business days after receipt of the request.
  3. Any agreement to clarify or narrow the request must be documented in writing, sent to the requester, and saved in the case folder.

### **Conducting the FOIA Search**

1. As noted above, the FOIA Branch must task all ODNI components likely to have responsive records to search for potentially responsive records, and provide a deadline within which the search must be completed.
2. The FOIA Branch should calendar the deadline for the component's response and follow up with the component's POC on or before the due date if the FOIA Branch has not received a response from the component.
3. If a component requests an extension of time to conduct the search, the FOIA Branch will verify that the requested extension is within the 20-day timeframe for processing. If not within the 20-day timeframe for processing, the FOIA Branch will work with the requester to enter into an agreement to extend the time for the search and document this agreement in writing to the requester and in the relevant case file.
4. The search tasking to the component(s) must include:
  - a. A copy of the FOIA request and any clarification or narrowing of the request;

- b. A description of the record(s) the requester is seeking;
  - c. Guidance on how to interpret the request and appropriate search terms;
  - d. Instructions to the component to search hard copy and electronic files, classified and unclassified shared drives, personal drives, and emails, voicemails, instant messages, etc., as appropriate;
  - e. Instructions on how components should document the methodology used to conduct a search;
  - f. A deadline by which components must respond; and
  - g. An instruction to respond with a 'no records' response if no records were located.
5. Individuals within ODNI components must search all files/locations likely to have responsive records, to include electronic and hard copy records, shared and local drives, classified and unclassified networks and email accounts, as applicable.
  6. When an ODNI component believes a record implicates the equities of another ODNI component, the component should inform the FOIA Branch and the FOIA Branch will coordinate with the other component, as necessary.
  7. When an ODNI component believes that a record implicates the equities of other federal agencies, the ODNI component should inform the FOIA Branch and the FOIA Branch will initiate a referral, consultation, or coordination with the other agencies, as necessary.
  8. If legacy systems or records for employees who have departed ODNI or who are on leave or out on joint duty assignments need to be searched, the component must notify the FOIA Branch, and the FOIA Branch will coordinate with the IT POC to conduct the searches, as necessary.
  9. ODNI components must respond to all tasked FOIA searches, even if no responsive records

are found.

10. After searches have been conducted, in addition to the located records, the component's

FOIA POC will provide the following information to the FOIA Branch:

- a. Who conducted the search;
- b. What was searched (e.g., electronic or hard copy documents, emails, databases, shared drives or local drives, classified or unclassified networks, etc.);
- c. What search terms were used;
- d. Why locations searched were likely to have responsive records – usually requiring explanation of the component's records management system or database.

#### **Responsiveness Review**

1. Upon receipt of records from ODNI components, the FOIA Branch will review the potentially responsive records and compare them to the FOIA request to assess their responsiveness.
2. The FOIA Branch is responsible for making final determinations regarding the responsiveness of agency records (not in litigation), with OGC guidance as necessary.
3. The FOIA Branch will follow up with components, as needed, to seek additional records that may not have been located in the search (e.g., responsive attachments to emails, other responsive records referred to in the located records, etc.).
4. The FOIA Branch will follow up with components and conduct additional research as necessary to determine, for example, the nature of a record, how the record was used, if it is a draft or final version, etc., to assess responsiveness.

#### **Application of FOIA Exemptions**

1. Unless a request is in litigation, the FOIA Branch makes final determinations regarding the

application of FOIA exemptions, except when the application of exemptions implicates OGC equities.

- a. When OGC equities are implicated by the application of exemptions, the FOIA Branch will consult with OGC to determine appropriate handling of those equities prior to responding to the request.
2. The FOIA Branch will seek feedback from relevant components regarding the application of exemptions, but it is the FOIA Branch's responsibility to conduct the required analysis under the FOIA to determine the appropriate application, if any, of FOIA exemptions.
3. The FOIA Branch will follow up with components and conduct additional research as necessary to determine, for example, the nature of a record, how the record was used, if it is a draft or final version, etc., to determine whether FOIA exemptions are applicable.
4. Exemptions may only be applied if the FOIA Branch (1) determines that disclosure of the information at issue could reasonably be expected to damage the national security, harm an interest protected by a FOIA exemption, or if disclosure is prohibited by law, and (2) takes reasonable steps to segregate and release non-exempt information. The FOIA Branch may consult with OGC as needed. These determinations will be documented in the case file<sup>4</sup>.
  - a. The FOIA Branch will coordinate with IMD/Classification Management Branch, as necessary, to conduct a classification review of information that either the component or FOIA Branch determines may be classified and thus would require

<sup>4</sup> It is the FOIA Branch's responsibility to conduct research, as necessary, to determine what may already exist in the public record. For instance, it is possible that a potentially-responsive record may already have been officially released in another case or may otherwise be publicly available (e.g., a letter from a Member of Congress to ODNI and ODNI's response may be posted on the respective websites, or ODNI press releases may be posted on ODNI's website).

redaction and citation to FOIA Exemption 1.

5. The FOIA Branch will apply all appropriate exemptions to the responsive records, utilizing a redaction software tool, and apply Bates stamps to each record<sup>5</sup>.

### **Chapter 3: Correspondence with Requesters**

#### **Acknowledgement Letters**

FOIA requires agencies to provide requesters with certain information. The FOIA Branch's

(b)(3) must submit an acknowledgement letter to the Chief of the FOIA Branch within 10 days of receipt of the request (if expedited processing is requested, then within 5 days of receipt). This will ensure the letter is signed and issued within 20 working days (if the Chief of the FOIA Branch is unavailable, an ODNI cadre staff employee can sign the letter on behalf of the Chief). Upon the receipt of a request that will take more than 20 working days to close, and after any necessary clarification or narrowing of the request, the FOIA Branch must provide the requestor with an acknowledgment letter that includes:

1. The date the FOIA request was received by ODNI and the subject of the request;
2. An estimated date on which the request could be completed;
3. An individualized tracking number;
4. A decision on any request for a fee waiver (and reasons related to such determination), as appropriate;
5. Whether the request constitutes "unusual circumstances" under FOIA.
  - a. "Unusual circumstances" refers to:
    - i. The need to search for, collect, and appropriately examine a voluminous amount of records; or

<sup>5</sup> In the event that responsive records are pulled from a previously processed FOIA request, if may be necessary to adjust the Bates stamps for the new request accordingly.

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- ii. The need for consultation with another agency<sup>6</sup>.
- b. In “unusual circumstances,” the letter must include the following information:
    - i. Notice to the requester that the request cannot be processed within established time limits;
    - ii. A description of the unusual circumstances and the date on which a determination is expected;
    - iii. An opportunity to limit the scope of the request so that it may be processed within the statutorily-prescribed time limit and an opportunity to arrange with ODNI an alternative time frame for processing the request or a modified request;
    - iv. The name of and contact information for ODNI’s FOIA Public Liaison; and
    - v. Notification of the right to seek dispute resolution services from the Office of Government Information Services (“OGIS”) and OGIS’s contact information.
  6. Within 10 calendar days of receipt of a perfected FOIA request<sup>7</sup>, a decision on any request for expedited processing and reasons related to the decision to grant or deny the request.

### **Response Letters**

FOIA requires that the requestor be provided with certain information about the agency’s action on the request. Accordingly, the response letter (to a request not in litigation) from ODNI must

<sup>6</sup> In some circumstances, it may not be appropriate to include this information in the acknowledgement letter as doing so (b)(3)

<sup>7</sup> A FOIA request which reasonably describes the records sought and is made in accordance with ODNI’s regulations.

contain:

1. The determination (e.g., no records located, release in full, denied in full, release in part, etc.) and the reasons supporting it (i.e. applicable exemptions);
2. Notification to the FOIA requester of their right to seek assistance from the ODNI FOIA Public Liaison and the name of and contact information for the FOIA Public Liaison; and
3. In the event of a decision to deny in full or in part:
  - a. Notification to the requester of their right to appeal the determination within 90 days from the date of the determination and the address to which the appeal should be sent;
  - b. Notification to the requester of their right to seek dispute resolution services from OGIS and OGIS's contact information. Requesters and agencies may request OGIS's assistance in resolving a dispute at any point in the FOIA process prior to litigation; and
  - c. A description of the projected volume of the information withheld, unless doing so would harm an interest protected by an applicable exemption (e.g. reveal a classified fact or intelligence sources or methods).
  - d. Enclose any responsive, Bates-stamped records with appropriate exemptions applied.

#### **Chapter 4: Appealed FOIA Requests**

FOIA provides requesters with a statutory right to administratively appeal an adverse determination an agency makes on a FOIA request. Adverse determinations, or denials of requests, include agency decisions that the requested records are exempt, in whole or in part, as well as determinations that the requested record does not exist or cannot be located. Adverse

determinations can also encompass procedural matters associated with a request, such as decisions on fee waiver or expedited processing, or the form or format of the requested records. In the event a FOIA requester submits an appeal. The administrative appeal process affords benefits to agencies as well as to requesters. The process offers the agency an opportunity to reevaluate its initial response to a request and identify any potential legal errors, and it increases requesters' confidence in the FOIA process by providing a second opportunity for the request to be reviewed. FOIA Branch will handle appeals as follows:

1. In the event of an appeal received by the FOIA Branch, the FOIA Branch Chief will conduct an initial review of the requester's appeal letter and the case file to determine the type of appeal and will communicate that to the Deputy Director ("DD") of IMD and provide him/her with the full initial case file.
2. The DD/IMD will contact the appropriate OGC POC to discuss the appeal and ask for any guidance on the processing of the appeal, if necessary.
3. The DD/IMD will work directly with the FOIA Branch's Appeals POC on processing the appeal, who will follow the steps as outlined in previous sections with regard to possible tasking of components and reviewing records.
4. Once processing of the appeal is complete, the FOIA Branch's Appeals POC will provide the DD/IMD with the appeals package including the determination and recommendation on how to respond to the requester.
5. The DD/IMD will review the package and will work with the Chief of the FOIA Branch and the Appeals POC to prepare the recommendation package for the ODNI/Chief Operating Officer ("COO") to make the final decision.
6. Once the COO makes the final appellate determination, the COO's office will relay that



decision to the DD/IMD and the DD/IMD will direct the Chief of the FOIA Branch to relay that decision to the requester.

### **Chapter 5: FOIA Requests in Litigation**

1. When a new FOIA litigation case is filed in federal court, the OGC lawyer handling the case will notify the FOIA Branch and request additional information needed to answer the plaintiff's (requester's) Complaint.
2. OGC will notify the FOIA Branch when new OGC litigation attorneys and support staff are hired, and the FOIA Branch will request share drive access to FOIA ~~ce~~ files for them, as necessary.
3. When corresponding about a case, OGC and the FOIA Branch will utilize the initial FOIA case number assigned to the case by the FOIA Branch, beginning in "DF," and the civil action number assigned by the court. These numbers will accompany all postings on the shared FOIA Litigation Calendar for future action in the case.
4. The FOIA Branch and OGC will work collaboratively to ensure that searches for potentially responsive materials occur in accordance with court orders and deadlines.
5. OGC will coordinate with DoJ to clarify and/or narrow the scope of a request, if applicable, and OGC will communicate the revised request to the FOIA Branch.
6. If a search has not already been conducted or an additional search is required, the FOIA Branch will be responsible for tasking ODNI components to conduct a search, as provided above.
7. Upon receipt of potentially responsive records from a component, the FOIA Branch will be responsible for initially reviewing them, as provided above, to determine whether:
  - a. The records are responsive to the request;

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- b. FOIA exemptions are applicable;
  - c. Other agency equities, if any, are at issue that require either consultation, referral<sup>8</sup>, or coordination, and immediately initiate the require action;
  - d. ODNI information in the records is currently and accurately classified or otherwise protected from public release.
8. OGC will review the responsive records identified by the FOIA Branch. In limited circumstances, it may be appropriate for OGC to collaborate with the FOIA Branch in conducting the initial responsiveness review.
  9. In the event that a consultation, referral, or coordination is required with another agency, the FOIA Branch will notify the other agency's FOIA non-OGC litigation POC, submit the request for the other agency to review, notify the other agency that the request is in litigation and subject to a court-ordered deadline, and provide a deadline for response. The FOIA Branch is responsible for following-up with other agencies and ensuring compliance with the litigation deadline. OGC may assist as needed.
  10. When the FOIA Branch receives a litigation consultation, referral, or coordination from another agency, the FOIA Branch will notify OGC. The FOIA Branch will review what it received in the consultation request to determine if the request is part of ongoing litigation to which ODNI is a party. In the event that the request relates to a case in which ODNI is a party, the new case file will be copied into the FOIA Branch's existing FOIA case file for the respective request.
  11. Prior to responding to the requester or another agency, whether or not ODNI is a party in the case, the FOIA Branch will coordinate with OGC for review of the responsepackage.

<sup>8</sup> In litigation, there may be circumstances (b)(3)

**ENCLOSURE**

## Appeals Process

### Standard Operating Procedure

1. If an early appeal, you will need to close the original case first. Log the Appeal Letter into (b)(3) and record the Case Number/Appeal Number on the top of the document. Scan this into (b)(3)
2. Create an appeal folder on the share drive within the original case and move the case into the Appeals main folder for the specific year. Scan all correspondence to this file.
3. Create an Appeal Acknowledgement letter. Obtain the signature on the letter, date stamp, scan into cadre and mail it out to the requester.
4. Case Manager – Retask the components using the Appeal Tasker Template. Request that responses be returned within 7-10 business days from the date of the tasking.
5. Use the following file structure format for these files: Reference A, Last Name, Request # DF 2015-XXXX
6. Include the following attachments with the tasker:
  - a. Initial request
  - b. Review response from component
  - c. Final response to requester w/docs as released
  - d. Appeal request
7. Once you have the re-review back, prepare the final response package for OGC along with the (b)(3) The (b)(3) example and list of Docs to include is attached.
8. Forward the link to the prepared package to Chief FOIA for review.
9. Chief FOIA will forward to D/IMD for review/approval.
10. When returned from D/IMD (either to case officer or Chief), forward to IDO CoS. D/IMD may forward to CoS directly if there are no changes needed.
11. This Email content will be "See link for the proposed ODNI response to FOIA Appeal Case ---DF-20XX-XXXX. This package does not require any coordination internal to IDO." CC Chief FOIA, D/IMD, D/IDO and DD/IDO (b)(3), atricia, (b)(3), (b)(6)
12. CoS will request (b)(3) number, and will upload documents to initiate routing with the (b)(3)

- a. Initial request
- b. Acknowledgement letter
- c. Search tasker(s)
- d. Search response(s)
- e. Review tasker(s)
- f. Review response(s)
- g. Final response to requester
- h. Appeal request from the requester
- i. Acknowledgement of Appeal letter

**ENCLOSURE**

## 4: Privacy Act Team

### Overview

The Privacy Act Team (PAT) are Case Managers that focus specifically on Privacy Act Cases. While many of the policies that apply to Case Managers apply to the PAT, there are many exceptions to allow for easier handling of cases and providing a response to the requester.

### Internal Privacy Requests

Members of the FOIA Team have the same rights to request a Privacy Case as anyone else. However, the request will be processed by the FOIA Chief and the Office of General Council (OGC) in order to prevent a conflict of interest. When a Privacy Case comes from a team member within the FOIA Office or its parent section, currently IMD, it will be opened as normal (b)(3). However, a Case Folder will **not** be opened in the Sharedrive. A physical copy of the request will be delivered to the FOIA Chief who will forward the request on to OGC. OGC will then store and process the request from their own office. There are two primary reasons why OGC processes the case:

1: To prevent unwanted access of the file by team members in the FOIA Office. Members of the FOIA Team typically have the same accesses potentially allowing a co-worker to access the records.

2: To prevent the requester from accessing information they may not be privy to. There is a conflict of interest in being able to monitor a case as it is processed. Because of the requester's accesses, they may be able to review information and names of individuals that contributed to their personnel file.

### Opening a New Privacy Act Case

Similar to Case Managers, new Privacy Act Cases should be opened by the (b)(3). If a request is sent directly to PAT Case Manager, the request should be forwarded to the (b)(3) so it can be properly processed before being worked by the PAT.

A significant difference between Privacy Act Cases and FOIA Cases are the Case Numbers. **DF-20XX-00XXX** will refer to a FOIA Case while **DP-20XX-00XXX** identifies the case as falling under the purview of the Privacy Act. Ensure when receiving new cases that the case number follows this format.

### Tasking Components

- A) Prepare tasking email using template found in share drive – deadline for the component's tasking is 1 week from the day you sent the email.
- B) **Please note-** ALL PA Emails MUST have Banner:

**\*\*\*This is a Privacy Act request and may contain sensitive personal information. Please treat as Close Hold. Do not forward. If you believe others need to review, reply to Sender only and provide their names. The FOIA/PA office will ensure appropriate coordination.\*\*\***

- C) If a requester is asking for "all records on themselves...", (b)(3)  
(b)(3)
- a. DNI Personnel Security Contact: (b)(3)

- b. HR Contact: (b)(3), (b)(6) and (b)(3), (b)(6)
- c. DNI Exec Sec: (b)(3)
- D) If a requester is asking for their Scattered Castles records ONLY, you will send an email to the following contact:
  - a. Scattered Castles: (b)(3), (b)(6)

### Component Responses

- A) If you receive no records, you will draft a 'No Records Available' (NRA) letter – found in the PA templates folder on the share drive and save to your senior review folder within the case
- B) If you receive no records, you will draft a 'No Records Located' (NRL) letter – found in the PA templates folder on the share drive and save to your senior review folder within the case
  - a. review the records and make appropriate redactions
  - b. once you have made your redactions, save them in the share drive and draft up your response letter to the requester (all templates can be found in the share drive) and save to your senior review folder within the case
- C) Fill out case routing sheet (template is in share drive) with case details
- D) In your senior review folder you should have:
  - a. Final response letter, case routing sheet and any enclosures you are sending back to the requester (i.e. initial request, responsive records)
- E) Send an email to (b)(3), (b)(6) letting her know that the case is ready for review.
  - a. Once (b)(3), (b)(6) has finished her review, she will send the case to (b)(3) for final review/signature
- F) Once you receive the signed letter, scan a copy into share drive and (b)(3)
- G) If your case had responsive records, burn the redactions, save and print copies to send to the requester (double check that your redactions are marked on the printed copies)
  - a. Close case out in (b)(3)
    - i. Verify that the Manager drop down contains your name
    - ii. Proceed to the Grant Code and choose the appropriate grant code (i.e. Granted in Full, Granted in Part, No Records Available, etc.)
  - b. At this time, the file is ready to be closed out of (b)(3) Verify that all information is correct, all documents have been scanned and comments have been made. After the case is closed in (b)(3) it cannot be re-opened to make any changes.
  - c. Hit the Forward button (yellow folder with red arrow) and hit "ok" once you are prompted and your case will be closed in CADRE.
  - d. Scan the complete package into the share drive case file. Save the documents by case number, name and document name. (Example: (b)(6) Final Letter to Requester)
- H) Prepare envelope to send to requester and give package to admin team for mailing.
- I) Ensure the Scorecard spreadsheet is updated .



**ENCLOSURE**

UNCLASSIFIED

# Standard Operating Procedure (SOP) for Acknowledgment Letters and Tasking

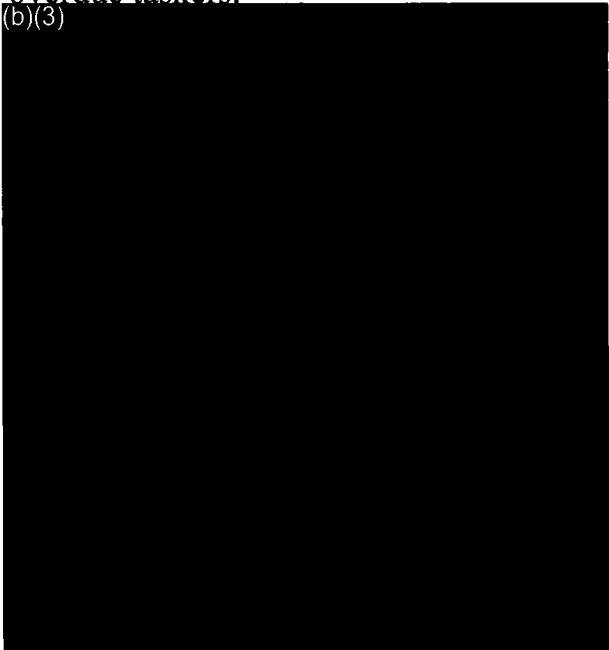
1. Check Scorecard for new open cases.
2. If no updates in Scorecard check share drive.
3. For new cases send out tasker **within 24-48 hours**.
4. Once the tasker has been sent, draft Ack letter. **(HOLD and Do not send to [REDACTED] until it's due)**

## ACKNOWLEDGEMENT LETTERS

- a. Ack letters are due to the requester before the 10<sup>th</sup> calendar day for expedite and 20<sup>th</sup> working day for non-expedited.
- b. Send Ack letters for signature on day 5 for expedite and day 15 for non-expedited. Also, if a tasker response comes before the 5<sup>th</sup> or 15<sup>th</sup> day. Review their response before sending the Ack letter, as it may not end up being needed. [REDACTED]
- c. **Set a calendar reminder in Outlook to ping (remind) you on the day you need to send for signature.**
- d. Update Scorecard once you have sent the Ack letter for signature

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## TASKING

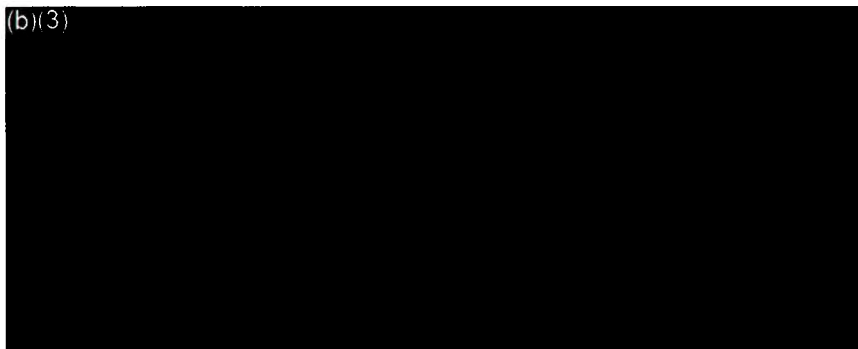
5. Now that we use (b)(3); check (b)(3) daily and throughout the day for any responses or questions (see example/guidance below).
  - a. Export the (b)(3) to an excel spreadsheet to make it easier to find overdue taskers.  
(b)(3)  

  - b. When a tasker is overdue write a comment in the comment field in (b)(3) and send an email making them aware that the tasker is overdue.
6. Use the contact list for components located (b)(3) on the share drive and the DNI website to see potential components to task.
7. Taskers should be sent out as soon as (b)(3), (b)(6) opens the case or no more than 2 working days. **(Do not let no more than 2 days go by without a tasker being sent unless instructed otherwise)**

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8. Give 5 working days suspense date. 1 to 2 weeks extension is fine unless it's an expedited case. If any component(s) requests more than 2 weeks, consult with Chief, IRRG ((b)(3), (b)(6)).
  - a. If you need guidance on (b)(3) check the (b)(3) SOP (b)(3)
  - b. In (b)(3) provide the component(s) with the initial request, the FOIA Questionnaire, and the Review Tasker (word document). Add the correct link from the components case drops folder on the share drive. Components will use their respected components' folder to supply responsive documents to us; if not provided in (b)(3)
  - c. Give a brief interpretation of what the requester is seeking in the Review Tasker (word document).
  
9. Once you have tasked the component(s), remember to follow-up with an email to those component(s) due to (b)(3) not being able to send notifications. (Your email will be their notification)
  - a. Only task one component per (b)(3) this helps with tracking the task and component's responses.
  - b. Save the Review Tasker (word document) and notification in the Search tasker folder as follows: (b)(3) (components' name Tasker)
  - c. If tasking multiple components: let each component know what other components were tasked.
  
10. After tasker(s) have been distributed, update (b)(3) with all the component(s) that were tasked. This will help identify the correct component(s) faster with future taskers for similar request.
  
11. Folder Management (How a Case Folder should be set up)
  - a. Initial Request – This will already be in the case folder.
  - b. Create a New Folder entitled "Search Tasker" and place the (b)(3) tasker(s) here.
  - c. Create another folder entitled "Search Responses" and place components response(s) here.

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- d. Once a response is received and there are responsive documents - create another folder entitled “Doc(s) for review” and add them here.
- e. Any email coordination/communication regarding any case(s) i.e., “emails from [REDACTED]”, “Extension request(s)”, or “Questions/concerns”, create a folder entitled “Correspondence” and add them here. (See example)



- 12. Folder management is very important because it ensures consistency and any case manager can effectively navigate the case.
- 13. When a response comes in use the snipping tool (you can search for it) to capture the components’ response in [REDACTED] and save it in the case folder (added to the Search Response). If a component emails their responses – add the email in the Search Response folder.
  - a. Remember to convert the email to a PDF. This means you will have 2 versions of the same email. (Original email and the PDF)
- 14. Review the components response for additional information. (i.e. defer to another component, request too burdensome)
  - a. If you are given another component to task, create a new tasker in [REDACTED] [REDACTED] for that component.
- 15. If document(s) are found, retrieve them from components case drops or [REDACTED] [REDACTED] and place in “Docs for Review Folder”.
- 16. Once a response is received and document(s) are retrieved; complete the tasker in [REDACTED] [REDACTED].

**ENCLOSURE**

### Procedures for FOIA Documents which Require COO Office's Review

1. (b) (3) coordinates the review of the document.
  - Task all internal ODNI offices besides the Executive Secretariat
  - Task all external OGAs
  - (b) (3) should also apply any and all redactions that we can (this will be mostly names, classification blocks, etc., but best guesses on classified or otherwise sensitive information should be redacted)
2. (b) (3) case manager will compile *all those redactions*. (The default will be to wait until *all* components, external and internal, have responded. There may be exceptions made on an ad hoc basis.) A senior review will sign off on the document.
3. (b) (3) will forward the redline version to OGC (to (b) (3), (b) (6) who will elevate reviews internally in OGC as needed). When sending, (b) (3) will tag specific locations where FO equities are found (page and/or paragraphs, as appropriate).
  - a. The case manager should specify, *in writing*, the document(s) are being tasked to OGC for concurrence prior to review by the FO (to distinguish from documents that contain OGC equities.) If OGC has equities in any document that must be reviewed (whether ultimately still requiring FO approval), those documents should be separated. Separate folders in the share drive is acceptable.
  - b. The case manager should specify, *in writing*, that all redactions have been applied to that copy. Which components and/or OGAs that have reviewed the documents must be identified.
4. Once OGC approves, (b) (3) forwards the redline version to the COO Executive Secretariat (b) (3) for concurrence/approval (using (b) (3) like normal).
5. (b) (3) will apply any additional redactions or delete redactions as instructed by the COO. If changes are made, a senior reviewer should review the entire document again.
6. For initial cases, at that point, the final response can be sent.
7. For litigation case, (b) (3) will forward the final version (i.e. with the COO's comments reflected) to OGC for final approval.

Keep in mind, the purpose of this new process is to ease the burden of both OGC and FO while also ensuring those high-level documents are reviewed by both offices before release. We want to give each office the opportunity to agree or disagree with redactions, not make them conduct a line-by-line review.

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**ENCLOSURE**

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## 2: (b)(3)

### Overview

The main roll of the FOIA Administrative team is processing incoming FOIA requests, Closing out immediate action cases, and initiating Search Taskers.

### Required Tools and Accesses

As part of the FOIA (b)(3), you will need to ensure you have access to a variety of tools to ensure you can effectively do your job. If you do not have access to any of the below materials / tools, please inform someone on the team and we will ensure you get the proper tools you need to effectively do your job.

- a. Blue ink pad and date stamper
- b. Envelopes, Return Address Labels, Case Folders
- c. Programs: (b)(3), Adobe Acrobat Pro (on both iCE and AIN), DNI-FOIA Mailbox on iCE & AIN, DNI-FOIA Email Distro on iCE
- d. E-Copy of the CADRE Case Mgmt User's Guide
- e. Email PAO version of Scorecard to HG every other Weds – set reminder in personal calendar

### Incoming Cases

Cases can come into the FOIA office in a variety of ways. It is up to the FOIA (b)(3) to check these channels daily to ensure requests do not sit idle and we have an adequate amount of time to work on and process them. The primary methods for a case to be received are listed below. **NOTE:** If a case comes in non-traditionally (i.e. direct E-mail to a team-member), the request must be forwarded to the (b)(3) for proper processing.

**FOIA Mailbox:** There are two FOIA Mailboxes on both the AIN and ADN.

**FOIA Hotline:** The FOIA Hotline Voicemail must be checked daily. (301) 243-1499

**Fax:** Check Fax Machine located a (b)(3) as necessary. Fax#: (301) 243-0610  
Machine is located at the (b)(3) entrance, on the left

**Mail:** a Mail Courier stops near (b)(3) at approx. 9:00am to pick-up and drop-off mail. / Courier stops by room (b)(3) at approx. 1030 to pick-up and drop-off mail.

### Opening a New FOIA Case

Once a new FOIA request is received, the request must be entered into our systems in a variety of ways depending on the nature of the case. The typical requests will fall into one of the following categories: **Initial Request, Referral, Consultation, or Litigation.**

#### 1) ALL FOIA Requests

- a. **Stamp Date Received** - on Request letter, Referral/Consult Memo, Appeal Letter, or Litigation Complaint
  - i. Check for Expedited Processing request
  - ii. Check for Fee Waiver request

(b) (5)

(b) (5)

- b. **Check if Case was previously opened or if a similar request is open:** Search (b)(3), (b)(3), and IMD/FOIA Branch share drive to ensure we are not already processing the requested information in another FOIA or MDR; it is not part of an ongoing investigation, in litigation, or was processed w/in the past two years. Enter a comment in (b)(3) noting that you did this.

(b)(3)

- c. (b)(3)

(b)(3)

*[Faint, illegible text from a document or form, possibly a search log or report, visible in the background.]*

(b)(3)



**2. Initial Requests and ODNI Litigations**

- a. Submit to gov't – New Case Inbox
  - i. They will decide what needs to be done - Quick close, draft an acknowledgement letter, task for search, etc.
  - ii. Annotate case comments in case folder, (b)(3) (b)(3)

**3. Consults and Referrals**

- a. Scan documents into share drive
- b. Case is generally assigned to a case manager right away for processing
- c. Annotate case comments in case folder, (b)(3) (b)(3)

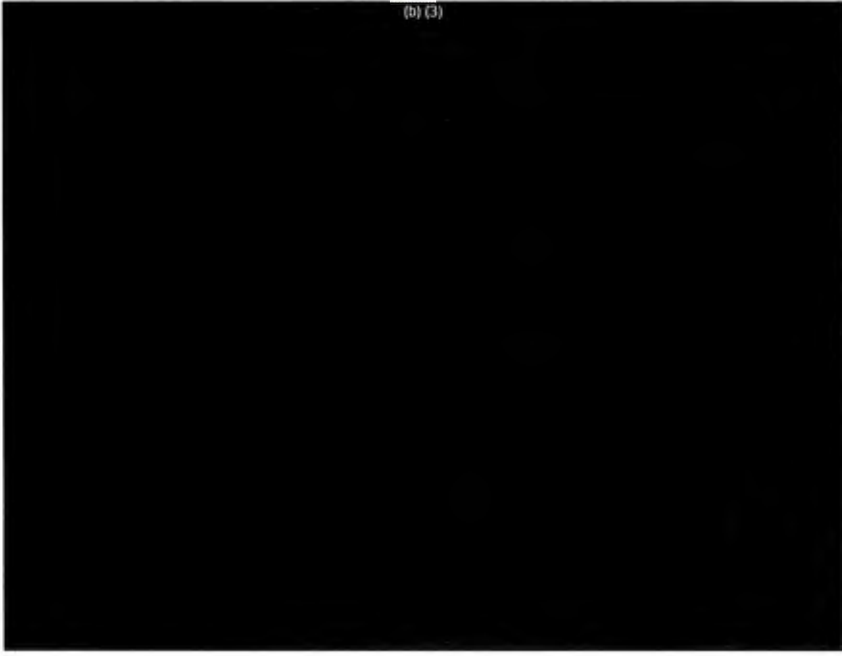
**4. Appeals (ODNI)** - treat other agencies' appeals as initial/consults unless we already processed it as an initial case

- a. (b)(3)
- b. Verify that appeal was submitted within 45 calendar days of the date stamped on our response letter
- c. DIFs and GIPs go to the case manager who processed the initial case
- d. Annotate case comments in case folder, (b)(3)

### Opening a New PA case

- If a PA request is received, either via email, fax or mail, follow the following steps.
  - A) Date stamp the PA request with date received.
  - B) Thoroughly read the entire request and attachments to determine whether the request is a **Consultation, Referral** or **Initial Search** to be processed by the ODNI.
  - C) Log on to (b)(3) Desktop Scanning.
  - D) Conduct a search of the requester to verify if he/she has input a request previously with ODNI (sometimes requesters will send in a request multiple times through different channels, i.e. fax, email or regular mail and we want to make sure we don't have duplicate requests. A requester may also submit multiple requests within less than a year, if this is the case, then the tasker would be handled differently). If a record is found, find the hard copy file and review the closed file.

(b)(3)



(b) (3)

- O) Hit the forward button to create a new case
  - a. Write the case number at the top of the initial request letter
  - b. (b)(3) will ask if you'd like to create a new file. Hit No.
  - c. After you've closed out this window, go back into the case and, which should be on the main (b)(3) screen now and make sure everything is filled out properly. You also want to select yourself as the Manager from the drop down menu
- P) Next, you will need to scan in the documents
- Q) Create a new folder on the share drive for your case and save documents to folder. Example of a case name: DP-2015-00065 (Requester's last name).
- R) The new case must be added to the FOIA Master (b)(3)

### Acknowledgement Letters

- a. Must mail out by no later than COB of 20<sup>th</sup> business day received for FOIAs for non-expedited requests
- b. For expedited requests, it's 10 calendar days
- c. Use template (see share drive)
  - i. Appeals when they come in will get an acknowledgement receipt letter, but NO APPEAL PITCH.
- d. Gov't sign letters
- e. Scan – save to (b)(3) and share drive (by case number)
- f. Send back to requester via E-mail
- g. Place Case E-mails in the Sharedrive Case Folder and (b)

### Tasking

- a. Gov't determines which components need to be tasked for a search
- b. Use templates – copy and paste into email
  - i. All email (MS Outlook on AIN and CWE, LN on CWE) searches go to IT (see FOIA POC spreadsheet)
- c. Attach initial request letter
- d. Use POC list for components – typically Exec Sec or Front Office
- e. Give five working day suspense – 1 to 2 week extension is okay unless it's an expedited case

- f. CC the FOIA Chief and the IPT
- g. Save sent email/tasker to share drive case folder
- h. Place post it note on case with the due date assigned to component(s)
  - i. Add to personal calendar for back-up reminder
- i. Update (b)(3)
  - i. Every Friday – status checks – email reminders to components that are overdue
- j. Responses
  - i. No records
    - 1. Give to the FOIA Chief to decide whether or not to create NRL response letter
  - ii. Records
    - 1. Save to share drive case folder
    - 2. Place the case on queue – awaiting case manager

**Closing an Initial Case**

- a. (b)(3) – The Case Managers will notify the IPT when to update the (b)(3) and with what Case Determination and exemptions

**FOIA Logs and Stats**

- a. FOIA Logs for dni.gov Website (submitted every month)

(b)(3)



(b)(5)

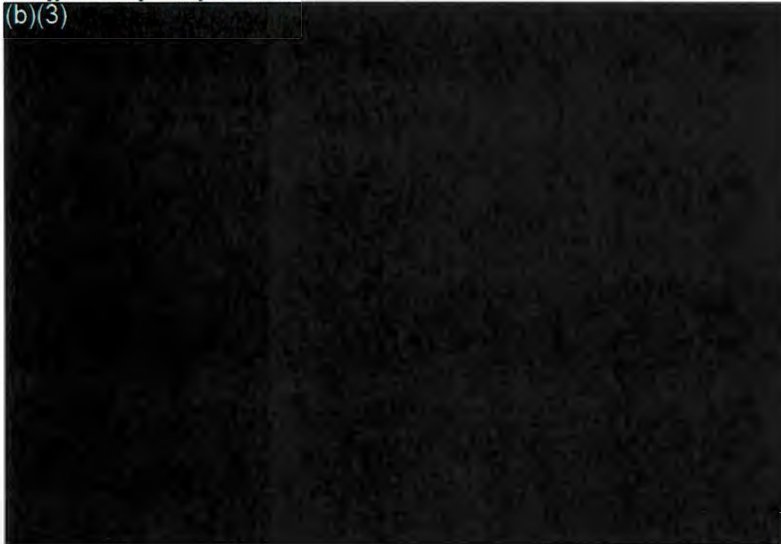


(b)(5)



b. **Weekly/Monthly FOIA/PA Stats**

(b)(3)



(b) (5)



**Convert to PDF and save**

1. Email PAO and CLPT version of (b)(3) to (b)(3), (b)(6), DNI-PAO Media and DNI CLPT Front Office every other Weds – set reminder in personal calendar

**How to retrieve email search results**

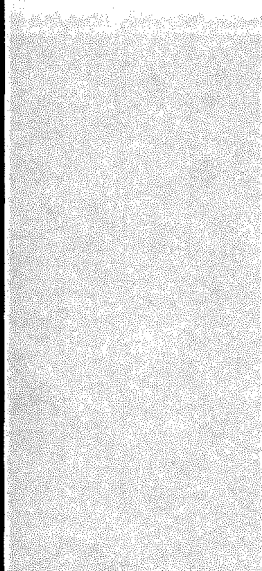
(b)(3)



(b) (5)



(b)(3)



which have been...  
...  
...  
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...





**ENCLOSURE**

### 3: Case Managers

#### Overview

Case Managers are responsible for working a case to completion after the (b)(3) opens a new case. Additionally, Case Managers are responsible for coordinating with Other Government Agencies (OGAs), ensure deadlines are met, apply redactions, and finalize responses to the requesters. Every FOIA case is a unique challenge, and while many will seem similar, individual nuances can completely change how a case is handled.

#### Receiving a New FOIA Case

Once (b)(3) creates a new FOIA case, it will be assigned a Case Manager (b)(3). The Case Manager will typically be informed of this either verbally or via E-mail. After the case has been assigned, the Case Manager must go into (b)(3).

- (b)(3)
- Fee Information
  - (b)(3)
  -
- Ensure a copy of the Initial Request and Acknowledgement Letter are in (b)(3)
- Ensure a copy of the request, an Acknowledgement Letter, email correspondence, and responsive records are in the Share-drive Case File (b)(3) will set up the initial folder with the documents).

#### Folder Management

With the possibility of Case Managers coming and going within the ODNI FOIA Team, case folders shall be properly organized and managed in the Share-drive Case File. To ensure consistency, the following folder breakdown WILL be used to ensure a new Case Manager will be able to effectively navigate the case. Case Managers ensure the right records are put in the right folders. When cases are created in the share-drive by the (b)(3) along with the Initial Request, Acknowledgement Letter, and Case Notes template, they will also have the following folders set up in the case folder:

- Docs for Review – This is where all case related documents will be located. Typically, the working PDF of Responsive Documents will be stored at this level. The following three Sub-Folders will be used as well to help with document determinations
  - Non-Responsive – For docs that are determined to be Non-responsive
  - Duplicate – For docs that are duplicative

**Responsive** – This is where the Original Documents determined to be responsive to the requester will be located.

**Search Taskers** – self-explanatory and normally done (b)(3)...but if you need additional searches, put them here

**Search Responses** – only the actual email containing the response goes here (see below for other emails)

**Emails and Correspondence** – any and all questions, guidance, etc about the case goes here.

**Senior Review** – only the Response letter and the Enclosures should be here. See Procedure Email #3 for additional guidance/information.

**Consults** – This folder is for OGA Consults. There will be a sub-folder for each agency consulted.

The following documents should be in each agency's folder:

- Consult letter to other agency (signed copy)
- Enclosures
- Email forwarding the consult
- Consult Response from the agency

**Referrals** - folder for each Agency (the following should be in each agency's folder)

- Referral letter to other agency (signed copy)
- Enclosures
- Email forwarding the referral
- Email confirming other agency received

**NOTE:** There will not be a Search Tasker or Search Response folder when the case comes in to us as a Referral or Consult. You may not need all of the folders listed above, add them as necessary.

**NOTE 2:** While this is a baseline for the how the file structure should appear for all cases, it may become necessary to create additional folders to more effectively compartment information. This is up to the prerogative of the Case Manager, but should only be exercised when necessary.

## **File Names and Management**

File names are incredibly important for identifying the contents of a document. With Windows 10, issues arise with the excessive file name lengths that prevent case managers from opening documents. Additionally, confusing file names can slow down the processing of a case. While naming of files/ documents is not policy, best practice is recommended you date a file and include a brief description.

(b)(3)

In the above examples of E-mail chain file names, One was simply copied over into the share drive which brought over the full Subject line names, and the other was renamed by the Case Officer.

Take the time to rename your Emails and it will significantly help when another case officer enters the folder to either assist or take over a case.

Creating multiple copies of the same document can often become confusing. It is suggested that you keep the minimum amount of documents necessary, especially for working copies. Making changes to a document, and then re-saving it as a new file provides 'version control' but this can become detrimental in the long run, especially when handing a case off to another Case Manager.

## Responsiveness Review

Once a FOIA request is accepted, the FOIA (b)(3) identifies / tasks various ODNI components who would likely have responsive documents. The components search their holdings and return to DNI-FOIA any potentially responsive documents, which (b)(3) then places into the case folder. Thereafter, a Case Manager is assigned to review each document for responsiveness to the request, and then identify what if any material needs to be protected or can be released. This is an iterative process, often, and it should be conducted at first with one of the senior reviewers, task leads or seasoned case managers to identify the "who, what, where" of material.

When the component sends documents, they may be identifying more documents than are actually responsive to the request. That is a natural consequence of their search—it is, in fact, preferable to an inadequate search, which is grounds for an appeal. Refer to the initial request letter to determine if the "responsive" document is, indeed, responsive to the request. For example, if a letter asks for all material on topic X, from date A until date B, make sure that the document falls within that timeframe. Document content may actually not be relevant to the terms or topics that the requester is interested in, but contained a name or other reference within (however slight) that was part of the components' query strategy. Move non-responsive files into the **Non-Responsive Folder**.

Refer to the component's response to our initial tasking to determine if they included extraneous terms, or incorrect terms or timeframes, in their search. Particularly if there don't appear to be as many documents as you would think ODNI would have on this topic (i.e. a search for information on a topic would likely return a large number of documents. If a response returns 5 documents or none, this may indicate a problem with the search strategy). Occasionally, it is necessary to re-task the components to search, especially if the requester has subsequently agreed to narrow the focus of the request.

Each document needs to be reviewed in its entirety and a determination made based on the equities it contains. Once you have determined a document is responsive, convert it to a PDF and move the original to the **Responsive Folder**. The PDF will become your working copy. Make sure that when converting E-mails, attachments are saved as a separate document.

When reviewing documents, you may find that there are Attachments in the responsive documents. For example, an E-mail chain may be determined to be responsive, but not the Attachment. If the Attachment is responsive, ensure you have a PDF copy in the **Documents for Review Folder** and move the original to the **Responsive Folder**. If the attachment is found to not be responsive, move the original into the **Non-Responsive Folder** or **Duplicative Folder** as necessary. Ensure there is a note in the case indicating that the attachment of a responsive document was determined to be **Non-Responsive**.

## Equity Review

If the document is responsive, then the next step is to determine who is the “owner” of the document—some hints:

- If the cover or title page(s) has an agency seal, that indicates the publisher of the document.
- A document may state that it is being published by a particular office or directorate within a directory.
- Because E-mail chains can easily travel from agency to agency, (b)(3) [REDACTED] as the owner of the E-mail chain. This is not a hard and fast rule and often it will be up to the Case Manager to determine the owner of the E-Mail chain.

If it is an ODNI-owned document, then ultimately we are responsible for releasing whatever information that can be released to the requester. Therefore, ODNI may need to coordinate internally (if there are ONLY ODNI equities in the document), or that we need to consult with other agencies, if their material is included. See Consultations and Referrals for more information on what to do once we determine the owner of a document.

## Initial Redactions

Many documents will have preliminary redactions that the Case Manager prior to sending out to the Components. These redactions will often take the form of **Names, E-mail Addresses, Phone Numbers, Building Address or Specific Rooms, and URLs**. To make the Redline Redactions, follow these steps:

1. Open the Document in Adobe.

2. (b)(3) [REDACTED]

3. [REDACTED]

4. [REDACTED]

5. [REDACTED]

6. Do not apply Redactions at this time. Applying Redactions means you are telling Adobe to black out the text and remove the underlying text. You will not apply the redactions until you begin to prepare the Final Response Package.

## Consultations and Referrals

Because the ODNI coordinates so much activity within the intelligence community (IC), many of our products will also have other agencies’ equities. If we consult with another agency on a document, we do not do our own redactions until after we have received all agency consultations, so that we can conduct our review on a combined/master version of the document. For Consultations, it is recommended to create a Sub-Folder within the **Consult** Folder. It is up to the Case Manager to decide how to name this sub-folder, however a useful method would be to date and then identify the Component/OGA, such as **2018\_01\_01 PAO**.

(b)(3)

### *Consultations – OGA*

If a document contains other government agency (OGA) information and is determined to be owned by ODNI, then a consultation package will need to be prepared. To prepare a consultation package, the following things will be needed:

- Consultation Letter (located in shared drive templates folder)
- A copy of the initial request (Enclosure 1)
- A copy of the litigation paperwork (Typically Enclosure 2 if included)
- A clean copy of Responsive Documents with OGA equities (Enclosure 2 if not a litigation, Enclosure 3 for litigations)
  - We send a clean copy so we do not adversely affect the OGAs equity review. If redactions are included, the consulting agency may not review the document as closely.
- Senior review and signature on Consultation Letter.
- Coordinate for internal consult once OGA consults are returned.

**NOTE:** There are some cases where a consultation will not be necessary (b)(3)

A quick rule would be that if it does not fall into one of the Initial Redaction categories, then it will likely need a consultation.

### *Consultations – Internal*

Case Managers are not Subject Matter Experts (SMEs) on many of the topics encountered in FOIA, therefore we send out internal consultations to the various Offices within the ODNI. It is typical practice of the ODNI FOIA Office to send out internal consultations once a document has been reviewed by all external OGA equity owners. However, cases may have timelines and you may have to consult both ODNI Components and OGAs at the same time. Typical guidelines are:

- Identify the appropriate component. If you are unsure call the suspected Component's Front Office and check if they would be the appropriate component. *Communication is a Case Manager's best friend!*
- In your E-mail, identify what Components you have or are sending the document to.
- The Initial Request should be included as a reference document for the component.
- Typical requests should be given a 1-2 week suspense based on size. For Voluminous requests, it may be more appropriate to break up the request into multiple packages or give a longer suspense. This will be case specific.
- There is no formal request memorandum. All relevant information should be included in the body of the E-Mail.
- A typical E-Mail may look like the below Example:

*ODNI Component,*

*The ODNI FOIA Branch has received a FOIA Request from REQUESTER as part of FOIA CASE ####. We request you review the attached documents for ODNI equities and submit your response to us by TT:TT*

*WEEKDAY, MONTH DAY YEAR. If you identify information that requires protection, please provide the reason/harm (i.e. reveals sources and methods, deliberative, etc.) that would come from release.*

*The ODNI FOIA Branch has conducted an initial review and taken ODNI equities under (b)(3). If you believe another ODNI component that is not included in this E-mail should be consulted, please advise.*

*Note that the equities of other agencies may be contained in the document. You do not need to make a release determination on information under the purview of another agency. We will consult with the appropriate agencies as needed.*

*Thank you for your assistance.*

### ***Referrals***

When a document is identified as responsive, but was not produced or is not owned by ODNI, document needs to be referred to the originating/owning agency. If there is ODNI material in the document, we will conduct a line-by-line equity review, including internal consultations. After we are certain that we have an ODNI-consensus treatment of the document, we then send the redacted document and any explanation of exemptions we took in redacting our material in a letter to the originating/owning agency, along with instructions for the requester to contact us with questions or to appeal our material redactions. A referral package is similar to a consultation package:

- Referral Letter (A template is located in the Share Drive)
- A copy of the initial request (Enclosure 1)
- A copy of the litigation paperwork (Enclosure 2, Include as necessary)
- A redacted copy of Referred Documents with FOIA Exemptions (Enclosure 2 if not a litigation, Enclosure 3 for litigations)
- A clean copy of the Referred Documents (Enclosure 3 if not in litigation, Enclosure 4 for litigations)
- Senior review and signature on Referral Letter.

When a referral is sent to ODNI we are responsible for responding directly to the requester just as an OGA is responsible for responding to **the when we send a referral to the**. Once ODNI takes ownership of a referral, we will process it as normal including sending out consultations as necessary.

### ***Returned Consultations***

Most cases will have multiple consultations, sometimes even multiple sets of consultations. It is of importance to ensure you keep track of what redactions have been applied to the documents and which ones still need to be applied or are outstanding. There is no defined system for how to achieve this. Previous Case Managers have used Excel and/or Word documents for document tracking, some have added a three letter acronym onto the file name, and others have used their Outlook calendar. As a Case Manager, ensure a system is used that best works for you and can be easily understood and accessed in your absence. After consults are returned:

- **Apply all recommended Component or OGA redactions to working copy.**
- (b)(3)
- Save Final E-mail response to the Component/OGA **Consult Sub-Folder**.

- Keep a copy of the Component or OGA Redactions in their **Consult Sub-Folder**.

## Closing a Case and Finalizing the Response Package

Once a Case Manager has completed their personal review, all Consultations have been received, all referrals have been sent, and all proposed redactions have been applied to the working documents, the final response package can be prepared.

The **Senior Review Folder** should contain a Word Document Draft of the Final Response Letter and all Enclosures with Redlines. The Senior Review Folder captures the final versions of the responsive documents of the case to make the FOIA Chief's review simpler. To inform the FOIA Chief that a packet is ready for Senior Review, an E-mail should be sent with the Subject Line: **Senior Review Request DF-20YY-XXXXX Final Response Package**. This allows the FOIA Chief to keep track of the Senior Review Requests they receive.

After the FOIA Chief reviews the final packet, they will inform the Case Manager that they can Burn the Redactions and will typically create a signed PDF of the Response Letter to the Requester in the **Senior Review Folder** (This Letter will be uploaded into (b)(3) when the case is being prepared to be closed out). The Case Manager will then Burn the Documents, and line out any classification markings that no longer apply (typically anything FOUO and higher will be lined out).

There will be variations in the way we send out the final Response Package depending on who is receiving it.

### *Replying to a Requester (Not in Litigation)*

Prior to responding to a requester, it is important to review all of the E-mails in the case to ensure that there are no other parties that need to review the package first. All agencies that have equities in the case should have had a chance to review the documents. The Response Package will have the following format:

- Response Letter from ODNI FOIA Office to Requester (Signed by FOIA Chief)
- Enclosure 1 (Original Request from Requester)
- Enclosure 2 (Burned copy of the Responsive Documents)

When responding directly to the requester, we will typically mail out the documents unless the requester requests a digital copy. If the requester requests a digital copy, the package must be sent from the Unclassified DNI-FOIA Mailbox to protect the privacy of the Case Managers. There are multiple members on the team who have access to this mailbox who can send out the final response, but it is the Case Manager's responsibility to prepare the E-mail (b)(3)

**NOTE:** Only the burned package will be scanned or transferred!

### *Replying to a Requester (Litigation)*

Once a response package has been finalized for a case in litigation, the package will typically be delivered either to an ODNI OGC Lawyer or a DOJ Lawyer and will not be returned directly to the requester. This is so the lawyers in the case have a chance to review the packet for consistencies prior to the requester receiving it. The contents of the packet will additionally include a copy of the litigation notice and will thus differ from a regular reply:



- Response Letter from ODNI FOIA Office to Requester (Signed by FOIA Chief)
- Enclosure 1 (Original Request from Requester)
- Enclosure 2 (Copy of Litigation Notice)
- Enclosure 3 (Burned copy of the Responsive Documents)

In the case of a Referral from another agency in Litigation, that agencies OGC Lawyers will typically want to review the packet that is being sent to the requester. However, this is not always true and there may be instances when the agency will want ODNI FOIA to respond directly to the requester.

### *Replying to an agency*

When replying to agency Consultations, most agencies will want to review the information recommended for redaction, therefore, it is not always necessary to create a burned copy of the Responsive Documents. There are two ways the ODNI FOIA Office can respond to a consulting agency.

The first is with a Burned Copy of the documents and a copy as they were originally received:

- Response Letter from ODNI FOIA Office to Requester (Signed by FOIA Chief)
- Enclosure 1 (Original Request from Requester)
- Enclosure 2 (Burned copy of the Responsive Documents)
- Enclosure 3 (Copy of the Responsive Documents as they were originally received)

The second acceptable response packet is the Redline or working Packet, which includes all consolidated proposed redactions and is provided to the consulting agency without being Burned. When responding with this packet, it is not necessary to return a copy of the document as they were originally received:

- Response Letter from ODNI FOIA Office to Requester (Signed by FOIA Chief)
- Enclosure 1 (Original Request from Requester)
- Enclosure 2 (Redline version of the Responsive Documents)

**NOTE:** If an agency is in litigation, the Litigation Notice will always be Enclosure 2.

### *Final Office Procedures to Close a Case*

Once the Final Packet has been sent, the Case Manager needs to finalize the rest of the Record Keeping material.

- Upload Final Response Letter to (b)(3)
  - Open the case in (b)(3)
  - (b)(3)
  - (b)(3)
  - With the Drop-Downs filled in, you can now drag and drop the Final Response Letter (b)(3) The system will likely take a few seconds to register the document. After it has finished, (b)(3), then close out the pop-up window.
  - You will now have to rename the letter.

- (b)(3)
- (b)(3)
- (b)(3)
- Closing out the Case in (b)(3)
  - Open the Case in (b)(3)  
(b)(3)
  - (b)(3)
  - (b)(3)
  - (b)(3)
  - The case is now closed in (b)(3)
- Ensure a Copy of all E-mails and Documents are in the Sharedrive Case File
  - The Case Manager will need to ensure a copy of all relevant case E-mails are included in the case folder. If there are ever any questions on the case, the E-mails will be accessible if the Case Manager is not.
  - While not Policy now, it is suggested that the Case Manager create PDF copies of the E-mails, rather than saving as an Outlook File. This is so there are no future issues opening the documents.
- Move Sharedrive Case File
  - Once all E-mails have been included, the Case File will be moved into the Closed Sub-Folder under the year the case was opened. Sometimes there are issues with moving the folder. If so, try again the day after.
  - After moving the Case File, add on the type of closure (GIF, GIP, DIF, etc)
- Update Scorecard
  - This should be your final action after everything else is complete.
  - Send an E-mail to the (b)(3) requesting an update to close out scorecard
  - The E-mail should include the Case Number, Release Determination, and Exemptions Taken if any.

**NOTE:** There are many nuances that will go into individual cases and they will not all fit cleanly into this guidance. If there are any issues with closing out a case, always be sure to ask questions.