



UNITED STATES MARINE CORPS
MARINE CORPS BASE
MARINE CORPS COMBAT DEVELOPMENT COMMAND
QUANTICO, VIRGINIA 22134-5001

MCBO 5720.2B
MCB (B 013)
MCCDC (C 05)
2 6 JAN 2001

MARINE CORPS BASE ORDER 5720.2B

From: Commanding General
To: Distribution List

Subj: AVAILABILITY TO THE PUBLIC OF MARINE CORPS RECORDS

Ref: (a) SECNAVINST 5720.42F (NOTAL)
(b) MCO P5211.2B

Reports Required: Annual Report of the Administration of the
Freedom of Information Act (Report Control
Symbol DD-PA(A)1365(5720), par. 8

1. Purpose. To prescribe procedures and policies for administration of the Freedom of Information Act (FOIA) as outlined by reference (a).
2. Cancellation. MCBO 5720.211.
3. Summary of Revision. This revision contains a significant number of changes and should be reviewed in its entirety.
4. Information. The FOIA establishes the right of public access to records about individuals and their government. With the exception of nine specific exclusions, listed in paragraph 6a of this Order, all information contained in records, whether adverse or favorable, is in the realm of public domain.
5. Record(s) Defined. The term "record" is explained in detail in paragraph (6) of enclosure (2) to reference (a). In summary, records:
 - a. Include books, papers, maps, photographs, and other documentary material regardless of physical form or characteristics. Computer files are included, provided they are retrievable in the approximate form desired and do not entail substantial programming.
 - b. Do not include property such as art objects, structures, furniture, paintings, designs, drawings, and data. However, requests to examine or view such material may be granted subject to the exemptions described in enclosure (2) of reference (a).

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6. Exemptions

a. The only records exempt from disclosure under FOIA are:

- (1) Classified files.
- (2) Internal personnel rules and practices.
- (3) Those specifically exempt by statute.
- (4) Trade secrets and confidential, commercial, or financial information.
- (5) Inter-agency and intra-agency memoranda containing advice, opinions, or recommendations as contrasted with factual matters.
- (6) Information in personnel and medical files as well as similar personal information in other files that, if disclosed, would result in a clearly unwarranted invasion of personal privacy.
- (7) Investigatory files compiled for law enforcement purposes.
- (8) Reports compiled by heads of government agencies responsible for regulating financial institutions.
- (9) Geological and geophysical information.

b. In addition to a record being in one of the categories listed above, it must be shown that release of the information will jeopardize a government interest, before access can be denied.

c. The presence of "For Official Use Only" (FOUO) marking on a record will not be the sole reason for denying its release. Information which is "reasonably segregable" and does not fall under a FOIA exemption must be considered for release to the requester. Reference (b) provides additional guidance concerning the release of information contained within FOUO records.

7. Denial Authority. The CG MCB is the Initial Denial Authority for records. The Base Adjutant is authorized to sign "By direction" for the Initial Denial Authority.

8. Request for Records

a. The Base Adjutant has coordinating responsibility for all FOIA requests; will maintain records of all requests and action

taken; will collect and record costs incurred; and will respond to all FOIA requests.

b. Requests received from individuals for copies or examination of records pertaining to themselves will be processed per Privacy Act procedures contained in reference (b). If the requester cites or implies the FOIA, the request will be processed under the time limits of FOIA and the exemptions and fees of the Privacy Act.

c. Minimum Requirements for FOIA Request. To qualify as a request under the FOIA, the request must at a minimum:

(1) Be in writing and indicate expressly or by implication that it is a request under the FOIA.

(2) Contain a reasonable description of the requested records.

(3) Contain a clear statement that the requester is willing and able to pay all fees, or fees up to a specified limit, or provide satisfactory evidence establishing that the requester is entitled to a waiver of fees per enclosure (3) of reference (a). Fees under \$15 are usually waived.

(4) Requests not meeting the minimum requirements of the FOIA will be processed per paragraph 7e of reference (a).

d. Action on Receipt of Request

(1) Activity heads receiving written requests for information or records will hand-date the receipt date of the request and immediately hand-deliver the request to the Base Adjutant. The Base Adjutant will determine if the request falls under the FOIA and if the requested record is located at this Base. If not, the Base Adjutant will forward the request to the cognizant command and draft a letter to the requester stating to whom the request has been forwarded.

(2) If the request falls under the purview of MCB, Quantico or MCCDC, the Base Adjutant will immediately task it to the appropriate activity head with information copies provided to intermediate organizations, as appropriate. In order to respond within the 20 working day time limit (as required by reference (a)) and allow adequate time to locate and duplicate the request, a due date will be assigned.

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(3) The Staff Judge Advocate (SJA) and Counsel, MCCDC, will provide legal guidance in their respective areas of cognizance for all cases in which questions arise pertaining to the legality of providing or denying a record. Respective areas of cognizance for providing FOIA advice are:

(a) For the SJA: Military law, civilian personnel law cases, general standards of conduct matters and standards of conduct matters related to military personnel, and all other matters except those falling under the cognizance of Counsel.

(b) For Counsel: All appropriated and nonappropriated contract and procurement law matters; business and commercial law aspects of patent, copyright, royalty, trademark and other intellectual property matters; environmental and land use matters; procurement integrity and other standards of conduct matters affecting civilian employees; all commercial and business law litigation involving the command and all commercial and business law aspects of acquisition, custody, disposal, management, and taxation of real and personal property.

e. Accountability. Each activity head will establish a system for strict accountability of requests to ensure that timely responses are made and that records of time of receipt and chain of custody are maintained.

f. Time Limit

(1) The Base Adjutant will make a written reply to the requester within 20 working days after receipt of a request.

(2) The Initial Denial Authority is permitted to extend the time limit for responding to requests. Extensions of time are only authorized when the conditions set forth by paragraph 11g2 of reference (a) are met.

9. Reports. The annual FOIA report required by reference (a) will be prepared by the Base Adjutant.

10. Concurrence. This Order has been coordinated with and concurred in by the CG MCCDC.

11. Action

a. Base Adjutant

(1) Coordinate and prepare replies to all FOIA requests received.

(2) Maintain files associated with FOIA.

(3) Collect and record all fees associated with FOIA requests, and immediately deposit fees collected with the Disbursing Officer.

(4) Prepare all reports pertaining to FOIA.

b. Staff Judge Advocate and Counsel. Provide legal guidance on FOIA requests as required.

c. Activity Heads

(1) Ensure that all written requests for information are hand-dated upon receipt and immediately hand-delivered to the Base Adjutant.

(2) Provide requested information or records under their cognizance to the Base Adjutant on a priority basis so that adequate responses can be made within the time prescribed by Public Law.

(3) Include with the information or record forwarded to the Base Adjutant, costs associated with the reproduction or search based on information contained in reference (a).


E. CAVAZOS, JR.
Chief of Staff

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