BUPERS INSTRUCTION 5720.7F

From: Chief of Naval Personnel

Subj: IMPLEMENTATION OF THE FREEDOM OF INFORMATION ACT IN ACTIVITIES UNDER THE COMMAND OF THE CHIEF OF NAVAL PERSONNEL

Ref: (a) 5 U.S.C.
    (b) SECNAVINST 5720.42F

1. Purpose. To provide instructions to the Bureau of Naval Personnel (BUPERS) commands and activities governing the release of records to the public under reference (a), section 552, as implemented by reference (b). This instruction is being reissued with a new date to comply with the Chief of Naval Operations age requirement for directives.

2. Cancellation. BUPERSINST 5720.7E.

3. Scope and Applicability. This instruction applies to all BUPERS commands and subordinate activities.

4. Background. Reference (b), subparagraphs 6(d), (e), and (f), tasks each activity with implementing the Freedom of Information Act (FOIA) and provides that each activity may grant requests for the release of records under its cognizance. The authority to deny requests is more limited.

5. FOIA Request. For a request to be processed under the FOIA, the following conditions, per reference (b), must be met:

   a. Request must be in writing and must either explicitly or implicitly invoke the FOIA;

   b. Request must be for a copy of existing records;

   c. Records requested must be reasonably described; and

   d. Request must state that the requester is willing to pay all fees, or fees up to a specified amount if the fees are expected to exceed the minimum fee waiver threshold, or the requester must provide satisfactory evidence of entitlement to a waiver or reduction of fees.
6. **Action.** All BUPERS commands and activities will issue a directive that identifies procedures for processing FOIA requests. The directive should provide for procedures to respond to the requester within 20 working days. A copy of the directive will be provided to BUPERS, Office of Legal Counsel (BUPERS-00J) (FOIA coordinator). All BUPERS commands must follow the denial procedures set forth in paragraph 7 below.

7. **Denial Procedures.** The authority to deny requests under FOIA is held only by those authorized below.

   a. Reference (b), subparagraphs 6(e)(1) and 6(e)(4), delegates the authority to deny requests for records under the FOIA to the Chief of Naval Operations and respective vice commanders, deputies, and those principal assistants specifically designated.

   b. BUPERS officials specifically authorized to deny requests for records are:

      (1) Chief of Naval Personnel

      (2) Deputy Chief of Naval Personnel

      (3) BUPERS-00J

   c. The following BUPERS echelon 3 commands are authorized to deny requests for records pertaining to their activity:

      (1) Commander, Navy Personnel Command

      (2) Commander, Navy Recruiting Command (COMNAVCURITCOM)

      (3) Commanding Officer, Navy Manpower Analysis Center.

   d. Each BUPERS command must establish procedures whereby a proposed denial is promptly forwarded to the correct denial authority. Prior to forwarding a proposed denial, subordinate commands should consult with their FOIA coordinator. After consultation with the FOIA coordinator, the subordinate command must expeditiously forward the original request letter, a copy of the requested records, and a memorandum stating the exemptions relied upon in recommending denial.

   e. Activities under the command of COMNAVCURITCOM will submit proposed denials to the appropriate denial authority per procedures established in directives issued by those denial authorities.
f. Naval consolidated brigs, personnel support detachments, customer service desks, and other pay and personnel support activities will submit proposed denials to Navy Personnel Command, FOIA Coordinator (BUPERS-00J).

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

9. Review and Effective Date. Per OPNAVINST 5215.17A, BUPERS-00J will review this instruction annually on the anniversary of its issuance date to ensure applicability, currency, and consistency with Federal, Department of Defense, SECNAV, and Navy policy and statutory authority using OPNAV 5215/40 Review of Instruction. This instruction will be in effect for 5 years, unless revised or cancelled in the interim, and will be reissued by the 5-year anniversary date if it is still required, unless it meets one of the exceptions in OPNAVINST 5215.17A, paragraph 9. Otherwise, if the instruction is no longer required, it will be processed for cancellation as soon as the cancellation is known following the guidance in OPNAV M-5215.1 of May 2016.

10. Forms and Information Management

a. The following Department of Defense forms may be downloaded from the Navy FOIA Web site at http://www.foia.navy.mil or http://www.esd.whs.mil/DD/DoD-Issuances/

   (1) DD 2086 Freedom of Information (FOI) Processing Cost, Record of

   (2) DD 2086-1 Freedom of Information Act (FOI) Processing Cost for Technical Data, Record of

   (3) DD 2564 Annual Freedom of Information Act Report

b. The Annual FOIA Report is assigned report control symbol DD-PA(A)1365 (5720) and is exempt from reporting requirements per SECNAV M-5214.1 of December 2005. All BUPERS commands must provide information for the previous calendar year that is required for the annual report under reference (b), enclosure 8, paragraph 2, to their denial authority by 20 October of each year.

J. W. HUGHES
Deputy Chief of Naval Personnel

Releasability and distribution: This instruction is cleared for public release and is available electronically only, via BUPERS Web site, http://www.public.navy.mil/bupers-npc/reference/Pages/default.aspx