CHAPTER 22

SENIOR OFFICERS LEGAL ORIENTATION

GOVERNMENT INFORMATION PRACTICES

Outline of Instruction

I. THE FREEDOM OF INFORMATION ACT (FOIA).

A. References.

1. Freedom of Information Act, 5 U.S.C. § 552, as amended.

2. Department of Defense Directive No. 5400.7, DOD Freedom of Information Act Program (29 September 1997).

3. Department of Defense Regulation No. 5400.7-R, DOD Freedom of Information Act Program (4 September 1998) (includes 1996 amendments to the Freedom of Information Act).

4. Army Regulation No. 25-55, The Department of the Army Freedom of Information Act Program (14 April 1997) (does not include 1996 amendments to the Freedom of Information Act).

5. Web Site Resources: Army FOIA/Privacy Website - http://www.rmd.belvoir.army.mil/FOIAMain.htm

B. Introduction.

C. Overview of FOIA.

1. Disclosure is the rule, not the exception.

2. The status and purpose of requester are generally irrelevant in determining whether records must be released.

3. Nine exemptions (seven of which apply to the DoD) and three exclusions permit withholding of records from the public.

4. Remedial provisions: access rights are enforceable in court.

D. Scope of FOIA. Applies to all "agency records."

1. "Records" include almost anything capable of being reproduced -- books, papers, computer data, photographs, etc.

2. Private notes vs. agency records. Private notes not subject to FOIA or Privacy Act if:

a. Prepared voluntarily;

b. Used only by the preparer (as a memory aide).

E. Disclosure of agency records.

1. Publication.

2. Reading room materials -- in paper and electronic format.

3. Release upon request.

F. Rule of segregability.

1. Portions of documents that are releasable must be segregated from portions that may be withheld.

2. Must estimate the volume of information denied.

G. How does the Army process FOIA requests?

1. The request must be proper.

a. It must request and reasonably describe a record.

b. It must be in writing (which includes conventional, paper requests, e-mail messages, and facsimile transmissions), express a willingness to pay or request a waiver of fees, and be directed to the proper custodian.

2. Acting on a proper request.

a. Custodian may usually grant the request.

b. Custodian cannot deny the request--it must be forwarded to the Initial Denial Authority (usually a higher-up in the technical chain).

c. Statutory time limit, 20 working days to communicate decision to the requester.

H. Exemptions. Exemptions permit, but do not require withholding.

1. Exemption 1 – Classified records.

2. Exemption 2 – Internal personnel rules and practices.

3. Exemption 3 – Other federal withholding statutes.

4. Exemption 4 – Trade secrets and commercial or financial information.

5. Exemption 5 – Certain agency memoranda and internal agency communications.

6. Exemption 6 – Personal privacy protection.

7. Exemption 7 – Records or information compiled for law enforcement purposes.

I. Exclusions.

1. Protect ongoing investigations unknown to subject.

2. Protect informants.

J. Penalties for improper withholding.

II. THE PRIVACY ACT.

A. References.

1. The Privacy Act of 1974, 5 U.S.C. § 552a, as amended.

2. Dep't of Defense Directive No. 5400.11, Department of Defense Privacy Program (13 December 1999).

3. Dep't of Defense Regulation No. 5400.11-R, Privacy Program (31 August 1983).

4. Army Regulation No. 340-21, The Army Privacy Program (5 July 1985).

5. Dep't of Army Pamphlet 25-51, The Army Privacy Program -- System Notices and Exemption Rules (21 September 1988).

6. Defense Privacy Board Advisory Opinions Transmittal Memorandum 92-1 (18 April 1992).

7. Websites: www.rmd.belvoir.army.mil/foiamain.htm (does not contain Army systems notices – for Army systems notices use www.defenselink.mil/privacy and follow hyperlinks). Defense Privacy Office Web Page--to research current Privacy Act System of Records Notices and other Privacy Act guidance and information--http://www.defenselink.mil/privacy.

B. Introduction.

C. Overview of the PA.

1. Public notice of systems of records.

2. Establish fair information practices.

3. Presumes subject access and the opportunity to amend factual matters in his own records.

4. Presumes no access to non-subjects (third parties) of records within a system of records.

D. Scope of the PA. Applies to "systems of records."

--A "system of records" is a group of records under the control of an agency from which information about an individual is retrieved by the name of the individual or by some other identifying particular.

E. Collection and maintenance of personal information.

1. Establish sound information practices.

a. Only collect information relevant and necessary to accomplish an agency purpose as defined by statute or Executive Order.

b. Collect directly from the subject unless:

(1) verifying information provided by the subject, or

(2) only a third party can provide the information.

c. A prohibition on the collection of information regarding the exercise of First Amendment rights unless:

(1) consent by the subject;

(2) collection is required by statute; or

(3) a valid law enforcement purpose exists.

d. Privacy Act advisement.

F. Access and amendment rights.

1. Requirements.

a. Access -- Tell subject we have the record. Allow subject to inspect and copy.

b. Amendment - Correct factual errors.

2. Ten exemptions from access and amendment (allow the agency to deny the subject access to and amendment of his own record).

a. General exemptions (2) - focus on agency maintaining the records.

b. Specific exemptions (6) - focus on the type of record.

c. Information compiled in anticipation of civil litigation (1).

3. Processing access and amendment requests.

a. Custodian may grant the request.

b. Custodian cannot deny the request--it must be forwarded to the Access and Amendment Refusal Authority (similar to the FOIA Initial Denial Authority (also a higher-up in the technical chain)).

G. General rule of nondisclosure to third parties--Unless the subject of the record consents or an exception applies (12 exceptions permit agencies to disclose information from records without the prior consent of the subject).

1. Disclosure within the agency (for the Army, the "agency" includes all of the DOD) on a need to know basis (Exception 1).

2. Disclosure required by FOIA (Exception 2). Use a balancing test to determine whether there is a “clearly unwarranted invasion of personal privacy.” Strike a balance.

3. Routine use (Exception 3). There are both general and specific routine uses.

4. Law enforcement use (Exception 7).

5. Court order (Exception 11). Must be signed by a judge, not a clerk or attorney.

H. Remedies.

1. Criminal provisions. Intentionally and willfully disclosing information from a Privacy Act protected record can result in criminal prosecution.

2. Civil remedies. Wrongful releases of information from Privacy Act protected files may subject the Army to lawsuit and monetary damages.

III.

IV. CONCLUSION

U.S. Department of Justice

Office of Information and Privacy

Telephone: (202) 514-3642

Washington, D.C. 20530

October 15, 2001

MEMORANDUM

TO: Principal FOIA Administrative and Legal Contacts at All Federal Agencies

FROM: Richard L. Huff
Daniel J. Metcalfe
Co-Directors
Office of Information and Privacy

SUBJECT: New Attorney General Memorandum on the FOIA

Enclosed is a new policy memorandum on the Freedom of Information Act that was issued by Attorney General John Ashcroft this past Friday evening, October 12, 2001.

As you can see, Attorney General Ashcroft's FOIA Memorandum establishes a new "sound legal basis" standard governing the defense of Freedom of Information Act lawsuits by the Department of Justice. It also recognizes the continued agency practice of making discretionary disclosures of exempt information under the Act, subject to statutory prohibitions and careful agency consideration of all institutional, commercial, and personal interests involved.

This new statement of FOIA policy supersedes the FOIA policy statement that was issued by the Department of Justice in October 1993, and it is effective immediately. The presidential statement on the FOIA that was issued in 1993 remains in effect.

Please ensure that this new FOIA policy memorandum is distributed widely within your agency as expeditiously as possible. Additionally, we will be distributing and discussing it at a FOIA Officers Conference to be held on Thursday, October 18, at the Commerce Department's Main Auditorium, at 10:00 a.m. It also is being made available through *FOIA Post* on the Department of Justice's FOIA Web site as of today.

Do not hesitate to contact OIP, through its FOIA Counselor service, at (202) 514-3642, with any question about this FOIA policy memorandum or any other aspect of FOIA administration.

Enclosure

NOT USED

Office of the Attorney General
Washington, D. C. 20530

October 12, 2001

MEMORANDUM FOR HEADS OF ALL FEDERAL DEPARTMENTS AND AGENCIES

FROM: John Ashcroft
Attorney General

SUBJECT: The Freedom of Information Act

As you know, the Department of Justice and this Administration are committed to full compliance with the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (2000). It is only through a well-informed citizenry that the leaders of our nation remain accountable to the governed and the American people can be assured that neither fraud nor government waste is concealed.

The Department of Justice and this Administration are equally committed to protecting other fundamental values that are held by our society. Among them are safeguarding our national security, enhancing the effectiveness of our law enforcement agencies, protecting sensitive business information and, not least, preserving personal privacy.

Our citizens have a strong interest as well in a government that is fully functional and efficient. Congress and the courts have long recognized that certain legal privileges ensure candid and complete agency deliberations without fear that they will be made public. Other privileges ensure that lawyers' deliberations and communications are kept private. No leader can operate effectively without confidential advice and counsel. Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5), incorporates these privileges and the sound policies underlying them.

I encourage your agency to carefully consider the protection of all such values and interests when making disclosure determinations under the FOIA. Any discretionary decision by your agency to disclose information protected under the FOIA should be made only after full and deliberate consideration of the institutional, commercial, and personal privacy interests that could be implicated by disclosure of the information.

In making these decisions, you should consult with the Department of Justice's Office of Information and Privacy when significant FOIA issues arise, as well as with our Civil Division on FOIA litigation matters. When you carefully consider FOIA requests and decide to withhold records, in whole or in part, you can be assured that the Department of Justice will defend your decisions unless they lack a sound legal basis or present an unwarranted risk of adverse impact on the ability of other agencies to protect other important records.

This memorandum supersedes the Department of Justice's FOIA Memorandum of October 4, 1993, and it likewise creates no substantive or procedural right enforceable at law.

NOT USED

DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

18 OCT 2001

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THEDEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, NET ASSESSMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTOR OF THE DOD FIELD ACTIVITIES

SUBJECT: Operations Security Throughout the Department of Defense

On 14 September the President declared a national emergency by reason of terrorist attacks and the continuing and immediate threat of further attacks on the United States. As this Department assists wide-ranging efforts to defeat international terrorism,. it is clear that US military and civilian service lives, DOD operational capabilities, facilities and resources, and the security of information critical to the national security will remain at risk for an indefinite period.

It is therefore vital that Defense Department employees, as well'as persons in other organizations that support DOD, exercise *great* caution in discussing information related to DOD work, regardless of their duties. Do not conduct *any* work-related conversations in common areas, public places, while commuting, or over unsecured electronic circuits. Classified information may be discussed *only* in authorized spaces and with persons having a specific need to know and the proper security clearance. Unclassified information may likewise require protection because it can often be compiled to reveal sensitive conclusions. Much of the information we use to conduct DOD's operations must be withheld from public release because of its sensitivity. If in doubt, do not release or discuss official information except with other DoD personnel.

All major components in this Department to include the Office of the Secretary of Defense, the Military Departments, the Joint Staff, the Combatant Commands, the Defense Agencies, the DOD Field Activities and all other organizational entities within the DOD will review the Operations Security (OPSEC) Program, described in DOD Directive 5205.2, and ensure that their policies, procedures and personnel are in compliance. We must ensure that we deny our adversaries the information essential for them to plan, prepare or conduct further terrorist or related hostile operations against the United States and this Department.

Paul Wolfowitz

APPENDIX B

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OFFICE OF THE SECRETARY OF DEFENSE
1950 DEFENSE PENTAGON
WASHINGTON, DC 203014950

ADMINISTRATION & MANAGEMENT

November 9, 2001

Ref: OI-CORR-101

MEMORANDUM FOR DOD FOIA OFFICES

SUBJECT: Withholding of Personally Identifying Information Under the Freedom of Information Act (FOIA)

The President has declared a national emergency by reason of the terrorist attacks on the United States. In the attached memorandum, the Deputy Secretary of Defense emphasizes the responsibilities all DoD personnel have towards operations security and the increased risks to US military and civilian personnel, DoD operational capabilities, facilities and resources. All Department of Defense personnel should have a heightened security awareness concerning their day-to-day duties and recognition that the increased security posture will remain a fact of life for an indefinite period of time.

This change in our security posture has implications for the Defense Department's policies implementing the Freedom of Information Act (FOIA). Presently all DoD components withhold, under 5 USC § 552(b)(3), the personally identifying information (name, rank, duty address, official title, and information regarding the person's pay) of military and civilian personnel who are assigned overseas, on board ship, or to sensitive or routinely deployable units. Names and other information regarding DoD personnel who did not meet these criteria have been routinely released when requested under the FOIA. Now, since DoD personnel are at increased risk regardless of their duties or assignment to such a unit, release of names and other personal information must be more carefully scrutinized and limited.

I have therefore determined this policy requires revision. Effective immediately, personally identifying information (to include lists of e-mail addresses) in the categories listed below must be carefully considered and the interests supporting withholding of the information given more serious weight in the'analysis. This information may be found to be exempt under 5 USC § 552(b)(6) because of the heightened interest in the personal privacy of DoD personnel that is concurrent with the increased security awareness demanded in times of national emergency.

- Lists of personally identifying information of DoD personnel: All DoD components shall ordinarily withhold lists of names and other personally identifying information of personnel currently or recently assigned within a particular component, unit, organization or office with the Department of Defense in response to requests under the FOIA. This is to include active duty military personnel, civilian employees, contractors, members of the National Guard and Reserves, military dependents, and Coast Guard personnel when the Coast Guard is operating as a service in the Navy. If a particular request does not raise

APPENDIX C

security or privacy concerns, names may be released as, for example, a list of attendees at a meeting held more than 25 years ago. Particular care shall be taken prior to any decision to release a list of names in any electronic format.

- Verification of status of named individuals: DoD components may determine that release of personal identifying information about an individual is appropriate only if the release would not raise security or privacy concerns and has been routinely released to the public.

- Names in documents that don't fall into any of the preceding categories: Ordinarily names of DoD personnel, other than lists of names, mentioned in documents that are releasable under the FOIA should not be withheld, but in special circumstances where the release of a particular name would raise substantial security or privacy concerns, such a narne may be withheld.

When processing a FOIA request, a DoD component may determine that exemption (b)(6) does not fully protect the component's or an individual's interests. In this case, please contact Mr. Jim Hogan, Directorate of Freedom of Information and Security Review, at (703) 697-4026, or DSN 227-4026.

This policy does not preclude a DoD component's discretionary release of names and duty information of personnel who, by the nature of their position and duties, frequently interact with the public, such as flag/general officers, public affairs officers, or other personnel designated as official command spokespersons.

D. 0. Cooke
Director

Attachment:
As stated

DEPARTMENT OF DEFENSE
DIRECTORATE FOR FREEDOM OF INFORMATION AND SECURITY REVIEW
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155

19 NOV 2001

01-CORR-111

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: DoD Guidance on Attorney General Freedom of Information Act (FOIA) Memorandum

On October 12, 2001, the Attorney General (AG) issued a memorandum for all heads of federal departments and agencies concerning the FOIA. On October 15, the U.S. Department of Justice (DOJ) Office of Information and Privacy (OIP) distributed the AG memorandum and stated that the new policy supersedes the previous FOIA policy statement issued by DOJ in October 1993. Copies of the AG and OIP memorandums are attached. On October 18, 2001, a FOIA officers conference was hosted by OIP in Washington D.C. to discuss the AG memorandum and other FOIA issues. The conference focused on interpretation of the AG memorandum and discussion on the possible use of the (b)(2) High (high 2) exemption in withholding information potentially of use to terrorists.

- Effective immediately, DoD components will adopt the **Sound Legal Basis** standard as reflected by the AG memorandum. The "foreseeable harm" standard is superseded. Changes to DoD 5400.7-R, "DoD Freedom of Information Act Program," will be forthcoming. Components will present a rationale for denial that DOJ will be able to defend if the denial is litigated. Components are advised to consult their respective FOIA policy and/or legal offices, or this Directorate as appropriate, to determine if a proper basis for denials of information exists.

- DoD components will apply the low 2 exemption as applicable. Be advised that the low 2 threshold applies **only** to internal matters of a relatively trivial nature. Components are encouraged to consult the DOJ "Freedom of Information Act Guide & Privacy Act Overview" for an in depth discussion on the legal history of the use of the low 2 exemption.

- Discretionary disclosures are no longer encouraged.

- DoD components may consider application of the high 2 exemption to deny information that may be of use to terrorist organizations, but must be prepared to present a **Sound Legal Basis** in support of their determinations.

H. J. McIntyre
Director

Attachments:
As stated

APPENDIX D

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DEPARTMENT OF THE ARMY
U.S. ARMY RECORDS MANAGEMENT & DECLASSIFICATIONS AGENCY
6000 6TH STREET STOP 5603
FORT BELVIOR, VA 22060-5603

REPLY TO ATTENTION OF:

TAPC-PDD-FP

11 February 2002

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Release of Information Concerning Chemical, Biological, Radiological, and Nuclear Weapons of Mass Destruction.

1. Due to recent events the FOIA/PA Office is providing this interim guidance pertaining to all requests concerning release of information associated with chemical, biological, radiological, and nuclear weapons of mass destruction.

2. If you are the office of record and receive such a request, please provide the individual with an interim letter acknowledging receipt and informing them that the action is being processed. If you are not the office of record, please refer the request to the appropriate activity or to this office, and advise the individual and this office of your action. Quite simply we want to be kept informed of the number and nature of the requests being received and the disposition thereof.

3. When processing the request, if a decision is made that certain documents are releasable under the FOIA, please forward the initial request and the documents identified as releasable to this office for further review prior to releasing the information. If all requested documents are being withheld under a FOIA exemption, please provide the requester with a response denying the information, citing the proper exemption, providing appeal rights, and forward a copy of your response to this office.

4. We are not telling you not to release any requested documentation dealing with this topical material. We are saying that it should not be released without our review. If you have any questions, please call Ms. Rose Marie Christensen at 703-806-5698.

JOHN W. MATTHEWS
Director, Records Management
and Declassification Agency

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APPENDIX E

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GENERAL COUNSEL (SAGC)
ADMINISTRATIVE ASSISTANT TO THE SECRETARY OF THE ARMY DIRECTOR, ARMY STAFF (SAAA)
DIRECTOR OF INFORMATION SYSTEMS FOR COMMAND, CONTROL, COMMUNICATIONS, AND COMPUTERS (SAIS-ZA)
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CHAIRMAN, ARMY RESERVE FORCES POLICY COMMITTEE (SAMR-RF)
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CHIEF OF ENGINEERS (DAEN-ZA)
THE SURGEON GENERAL (DASG-ZA)
CHIEF, NATIONAL GUARD BUREAU (NAGB-ZA)
CHIEF, ARMY RESERVE (DAAR-ZA)
THE JUDGE ADVOCATE GENERAL (DAJA-ZA)
CHIEF OF CHAPLAINS (DACH-ZA)
ASSISTANT CHIEF OF STAFF FOR INSTALLATION MANAGEMENT (DAIM-ZA
(CONT)

TAPC-PDD-FP
SUBJECT: Release of Information Concerning Chemical, Biological, Radiological, and Nuclear Weapons of Mass Destruction.

DISTRIBUTION: (CONT)
COMMANDING GENERAL:
US ARMY EUROPE AND SEVENTH ARMY (AEACG)

COMMANDER:
US ARMY MATERIEL COMMAND (AMCCG)
US ARMY FORCES COMMAND (AFCG)
US ARMY TRAINING AND DOCTRINE COMMAND (ATCG)
US ARMY SPECIAL OPERATIONS COMMAND (AOCG)
US ARMY CORPS OF ENGINEERS (CECG)
US ARMY MEDICAL COMMAND (DASG)
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EIGHTH U.S. ARMY (EACG)
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US ARMY SOUTH (ASCG)
US ARMY INTELLIGENCE AND SECURITY COMMAND (IACG)
US ARMY CRIMINAL INVESTIGATION COMMAND (CICG)

CF:
THE ADJUTANT GENERAL, (TAPC-PD)
OFFICE OF THE COMMANDING GENERAL, U.S. TOTAL ARMY PERSONNEL COMMAND, (TAPC-ZA)
OFFICE OF THE DEPUTY CHIEF OF STAFF, G1, (DAPE-ZA)

NOT USED

ASSISTANT SECRETARY OF DEFENSE
6000 DEFENSE PENTAGON
WASHINGTON, DC 20301-6000

December 28, 2001

COMMAND, CONTROL, COMMUNICATIONS, AND INTELLIGENCE

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, NET ASSESSMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Removal of Personally Identifying Information of DoD Personnel from Unclassified Web Sites

In accordance with DoD 5400.7-R, "DoD Freedom of Information Act Program," unclassified information which may be withheld from the public by one or more Freedom of Information Act (FOIA) exemptions is considered For Official Use Only (FOUO). DoD Web Site Administration policy (www.defenselink.mil/webmasters), issued by Deputy Secretary of Defense memorandum, December 7, 1998, prohibits posting FOUO information to publicly accessible web sites and requires access and transmission controls on sites that do post FOUO materials (see Part V, Table 1).

The attached November 9, 2001, memorandum from the Director, Administration and Management (DA&M), citing increased risks to DoD personnel, states that personally identifying information regarding all DoD personnel may be withheld by the Components under exemption (b)(6) of the FOIA, 5 USC §552. This action makes the information which may be withheld FOUO and inappropriate for posting to most unclassified DoD web sites.

Thus, all personally identifying information regarding DoD personnel now eligible to be withheld under the FOIA must be removed from publicly accessible web pages and web pages with access restricted only by domain or IP address (i.e., .mil restricted). This applies to unclassified DoD web sites regardless of domain (e.g., .com, .edu, .org, .mil, .gov) or sponsoring organization (e.g., Non-Appropriated Fund/Morale, Welfare and

APPENDIX F

Recreations sites; DoD educational institutions). The information to be removed includes name, rank, e-mail address, and other identifying information regarding DoD personnel, including civilians, active duty military, military family members, contractors, members of the National Guard and Reserves, and Coast Guard personnel when the Coast Guard is operating as a service in the Navy.

Rosters, directories (including telephone directories) and detailed organizational charts showing personnel are considered lists of personally identifying information. Multiple names of individuals from different organizations/locations listed on the same document or web page constitutes a list. Aggregation of names across pages must specifically be considered. In particular, the fact that data can be compiled easily using simple web searches means caution must be applied to decisions to post individual names. If aggregation of lists of names is possible across a single organization's web site/pages, that list should be evaluated on its merits and the individual aggregated elements treated accordingly.

Individual names contained in documents posted on web sites may be removed or left at the discretion of the Component, in accordance with the DA&M guidance. This direction does not preclude the discretionary posting of names and duty information of personnel who, by the nature of their position and duties, frequently interact with the public, such as flag/general officers, public affairs officers, or other personnel designated as official command spokespersons. Posting such information should be coordinated with the cognizant Component FOIA or Public Affairs office.

In keeping with the concerns stated in the referenced memorandum and in the October 18, 2001, DepSecDef memorandum, "Operations Security Throughout the Department of Defense," the posting of biographies and photographs of DoD personnel identified on public and .mil restricted web sites should also be more carefully scrutinized and limited.

Sites needing to post contact information for the public are encouraged to use organizational designation/title and organizational/generic position e-mail addresses (e.g., office@organization.mil; helpdesk@organization.mil; commander@base.mil).

Questions regarding Web Site Administration policy may be directed to Ms. Linda Brown. She can be reached at (703) 695-2289 and e-mail Linda.Brown@osd.mil. Questions regarding Component-specific implementation of the DA&M memorandum should be directed to the Component FOIA office.

John P Stenbit

John P. Stenbit

Attachment
As stated

DEPARTMENT OF THE ARMY
U.S. ARMY RECORDS MANAGEMENT & DECLASSIFICATIONS AGENCY
6000 6TH STREET STOP 5603
FORT BELVIOR, VA 22060-5603

REPLY TO ATTENTION OF:

TAPC-PDD-D

22 May 2002

MEMORANDUM FOR SEE DISTRUBTUION

SUBJECT: Safeguarding Information Regarding Weapons of Mass Destruction and Other Sensitive Documents Related to Homeland Security

1 References:

a. Records Management and Declassification Agency (RMDA) memorandum dtd 11 April 2002, SAB (enclosures w/d) (Enclosure 1).

b. SECDEF message to ALDODACT, 151629Z May 02 (Enclosure 2), that directs military departments to provide OSD the status of their reviews and progress on implementation by 31 May 2002. The Army's Security Policy Office, Deputy Chief of Staff for Intelligence, G2, is responsible for reporting the Army's overall progress to date, and included in the Army's report will be the status of your command's review of unclassified but potentially sensitive documents recently removed from the Defense Technology Information Center (DTIC) web site because of concern they could potentially contain information that could assist in the development and use of weapons of mass destruction. While some organizations have been actively involved in completing their reviews, others appear to be virtually ignoring the White House and National Security Council request for expeditious action. In some instances, the command's designated action officer has not been definitively reported, or will not accept responsibility for this action.

2. Although we have not yet received a firm suspense date from the G2 for reporting your progress in support of the SECDEF message, in order to allow time for compiling the data and staffing the action, it can be assumed that our suspense will be several days prior to the DOD suspense of 31 May 2002. Therefore, pending a firm suspense, please review your progress to date and expedite your reviews as much as possible. It is certainly not our intent to embarrass any particular command; however, we must accurately report those Army organizations that have or have not put forth a good faith effort to respond to the White House/SECDEF request. Additionally, in support of the SECDEF message, the Directorate for Freedom of Information and Security Review (DFOISR) is publishing guidance for the handling of Freedom Of Information Act (FOIA) and Mandatory Review (MDR) requests. The Army FOIA Office will forward a copy of this guidance with implementing instructions directly to Command FOIA offices.

APPENDIX G

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TAPC-PDD-D
SUBJECT: Safeguarding Information Regarding Weapons of Mass Destruction and Other Sensitive Documents Related to Homeland Security

3. As always, we at RMDA stand willing to assist to the greatest extent possible. My point of contact remains Mr. Steven A. Raho, Army Declassification Activity. Mr. Raho may be reached at (703) 465-2553/2555, or email steven.raho@adf.hoffman.army.mil. Please verify the name, phone number, and email address of your point of contact for this action upon receipt of this memorandum to Mr. Raho. The DTIC point of contact remains Mr. Chris Cupp, (703) 767-8242 or email ccupp@dtic.mil.

2 Encls

JOHN W. MATTHEWS
Director, Records Management and
Declassification Agency

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CF:
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DEPARTMENT OF THE ARMY
U.S. ARMY RECORDS MANAGEMENT & DECLASSIFICATIONS AGENCY
6000 6TH STREET STOP 5603
FORT BELVIOR, VA 22060-5603

REPLY TO ATTENTION OF:

TAPC-PDD-FP

2 8 JUN 2002

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Release of Information Concerning Chemical, Biological, Radiological, and Nuclear (CBRN) Weapons of Mass Destruction (WMD) and Critical Infrastructure Information (CIF)

1 References:

a. Records Management and Declassification Agency (RMDA) memorandum dtd 11 February 2002, SAB (enclosures w/d) (Enclosure 1).

b. Records Management and Declassification Agency (RMDA) memorandum dtd 22 May 2002, Subject: Safeguarding Information Regarding Weapons of Mass Destruction and Other Sensitive Documents Related to Homeland Security (Enclosure 2).

2. This memorandum supplements and expands upon the memorandums referenced above.

3. The events of 911 have instilled added significance to the manner in which the Department of the Army reviews/releases certain documentation. The special records so identified pertain to mainly chemical, biological, radiological and nuclear weapons of mass destruction and critical infrastructure information. The rules and regulations pertaining to their releasibility under the Freedom of Information Act or the criteria for Declassification Actions have not changed. The overall responsibility for administering both programs remains with the Army Records Management Declassification Agency (RMDA), which is a part of the Office of the Adjutant General.

4. Addressees are reminded that all requests pertaining to this type document submitted under FOIA, or when processing mandatory declassification reviews submitted under Executive Order 12958, require special handling. In those instances where an office receives a request for such documentation within their custody and which they think should be granted, that office will forward: (a) the incoming request; (b) the documents in question; (c) a recommendation with respect to the incoming request; (d) supportive memorandum, if appropriate; and, (e) the name and address of the Initial Denial Authority responsible for the release of the material requested, to Department of Army Freedom of information and Privacy Acts Office, 7798 Cissna Road, Springfield, VA 22153-3166. Denial authority for such requests remains unchanged at the present level.

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5. No exceptions and no waivers. If in doubt as to whether it should be released or declassified, refer the material to us for review. My point of contact in this matter is Ms. Rose Marie Christensen, (703) 806-5698

Enclosures

JOHN W. MATTHEWS
Director, U.S. Army Records Management
and Declassification Agency

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