

FOIA Processing from Start to Finish



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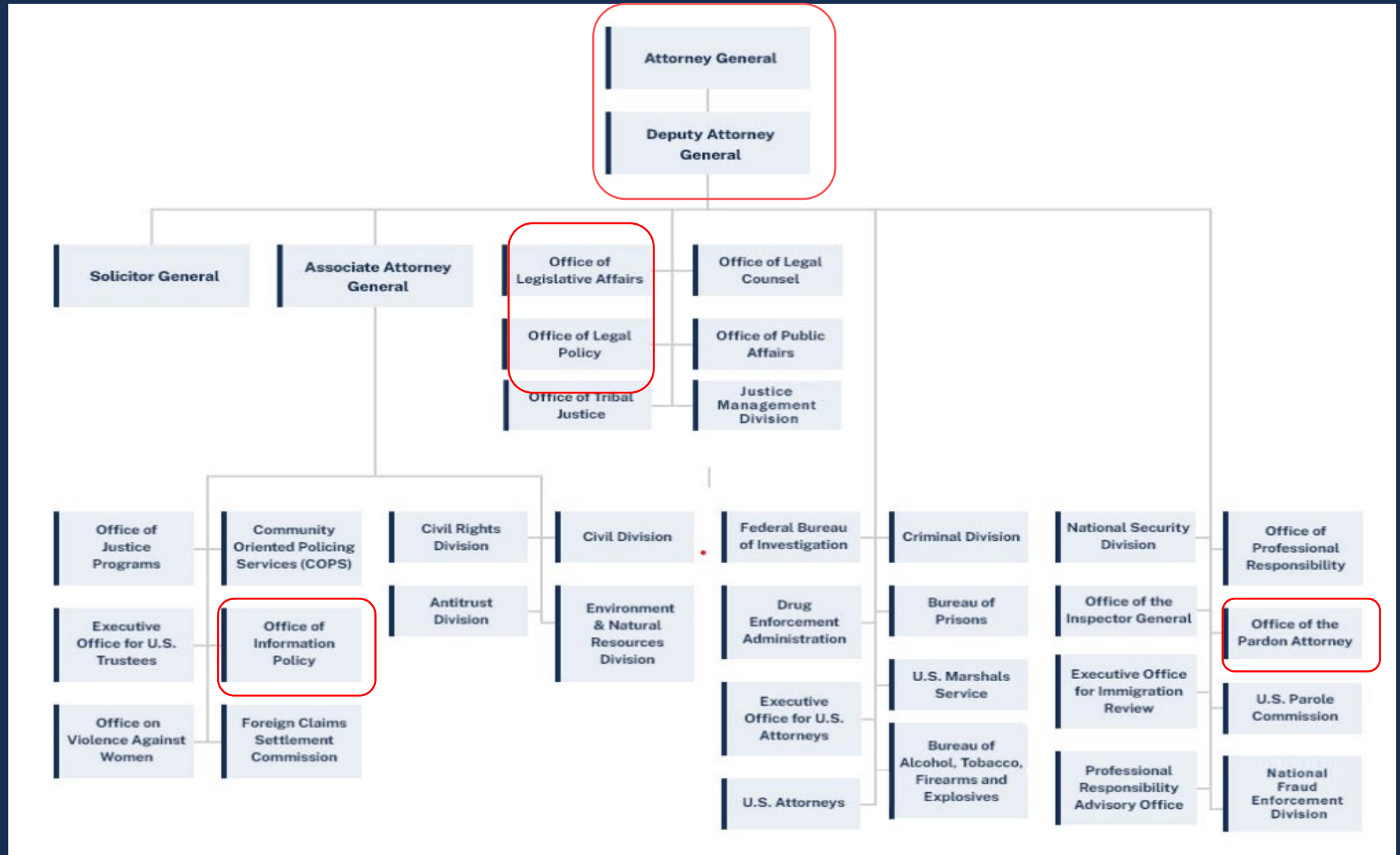
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Tools

- FOIA Statute & Amendments to the Statute
- **Your** Agency Regulations
- DOJ/FOIA Guide & OIP Guidance:
www.justice.gov/oip/
- FOIA Counselor Service: (202) 514-3642
- Internet & www.foia.gov



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Processing Checklist & Templates

- Outlines Procedures for Processing
- Establishes Quality Controls
- Creates Consistency
- Sample Language



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Receive FOIA Request

- Initial Consideration Examples:
 - Expedition
 - Scope
 - Assign
 - Acknowledgment
 - Unusual Circumstances
 - Type of Requester
 - Track
 - Searching
 - Quick Close
- If possible, close within 20 working days



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3 Types of Requesters

	<i>Search</i>	<i>Review</i>	<i>Duplication</i>
Commercial Use	✓	✓	✓
Institutions/Media			✓*
All Others	✓**		✓*

* First 100 pages of duplication free of charge per request.

** The first two hours of search free of charge per request.



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Case Notes

- Chronology of Actions from Intake to Final Response
- Research
- Analysis
- Document Actions (not limited)
 - Searches/Consults/Referrals/Fees/Exemptions



Quick Close

- Requests processed and closed within 20 working days of receipt.
- Examples:
 - Previously processed records
 - Records available online or in agency's FOIA library
 - Fast search (few pages) with quick consult turnaround times



Acknowledge Request

If request will take longer than 10 working days to process, acknowledge request and provide the following information:

- Date of receipt & subject of request
- Administrative tracking number
- Office contact number or internet service



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Acknowledge Request

- “Unusual Circumstances”
- Opportunity to narrow request scope
- Fees (as appropriate)
- FOIA Public Liaison & Office of Government Information Services (OGIS) – contact information



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Knowledge Check

What type of information should be included in an acknowledgement letter?

- A. Administrative tracking number
- B. Your office contact information
- C. Date of receipt in your office
- D. All of the above



Answer:

What type of information should be included in an acknowledgement letter?

- A. Administrative tracking number
- B. Your office contact information
- C. Date of receipt in your office
- D. All of the above**



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Definition of Search

- Review, manually or by automated means, agency records for the purpose of locating those records responsive to a request.
- Conduct thorough and adequate record search to uncover all responsive records



Records Search

- Identify potential locations for responsive records
- Issue search instructions
- Document record search (terms used, custodians and systems searched)
- Cut-off date for search



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Record Collection

Search records systems (classified & unclassified) including, but not limited to:

- Databases
- Offices
 - Electronic records
 - Paper files
- Records in storage



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Knowledge Check

You have conducted a search in response to a complex request. What information should you include in your case notes?



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Possible Answers:

- Locations/Databases Searched:
 - Include justification for why certain locations were searched based on the type of records sought
- Search Terms Used:
 - Wildcard searches, nicknames of individuals, etc.
 - Ex. of Wildcard = vot* - could be used for searching both the terms 'voting' and 'voter'
- Timeframe:
 - Beginning and cutoff dates (and why)
- Analysis of Search Results:
 - Responsiveness decisions



Organizational Tips

- Maintain clean and working copies of responsive documents
- Document communications with requester
- Maintain up-to-date case notes
- Record all processing decisions



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Analysis and Exemptions

- Review records to determine responsiveness
- De-duplicate universe of records
- Will consultations/referrals be needed?



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Analysis and Exemptions

- Apply exemptions as appropriate
 - Protect *national security, personal privacy, privileged communications, and law enforcement/investigations*
- **Ask**: Is there harm in releasing this information?
 - Segregate, if possible



Knowledge Check

You are processing a responsive email chain discussing the language of a draft memoranda. A participant's signature block includes their office and cell phone numbers. What exemptions might be applicable to protect this type of information?



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Possible Answers:

- Exemption 5:
 - Deliberative process privilege (draft language)
- Exemption 6:
 - Personal privacy (cell phone)
- Other exemptions possible depending on content of the responsive material
- Remember to apply the foreseeable harm standard



Consultation, Referral, and Coordination



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CONSULTATION: document(s) that originated with *your* agency/office, but contain equity of another agency/office

REFERRAL: document(s) that originated with *another* agency/office

COORDINATION: document(s) that contain sensitive law enforcement (LE) *or* national security information



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Consultation

- Record(s) originated with *your* agency/office, but contain equity of another agency/office
- Send record(s) to other agency/office to obtain *their disclosure recommendations*
- *Always include administrative tracking number*



Consultation

- *Await* agency/office consultation response
- As originator *your* agency/office makes the *final determination* and responds to requester
- Keep in mind administrative appeal rights



Referral

- Record(s) that originated with *another* agency/office
- Refer record(s) to agency/office where it *originated*, if your agency/office has equity **provide recommendations**
- *Always include administrative tracking number*



Referral

- Agency/office where record(s) originated will make the *final determination* and respond to requester
- *Advise* requester of referral of records to other agency/office



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Coordination

- Record(s) contains sensitive law enforcement (LE) *or* national security information that originated with a LE or Intelligence Community (IC) agency.
- When necessary, to avoid an inadvertent disclosure of personal privacy *or* national security interest, this modified procedure will be utilized.



Coordination

- Agency/Office that **received** the request typically responds to requester, after coordinating with LE or IC agency.
- For additional information:
www.justice.gov/oip/blog/foia-guidance-13



Knowledge Check

Your search locates an email chain that is responsive to the request. The email chain is between another agency and yours. What do you do?



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Answer:

The email chain has mixed equity, so you consult with the other agency, but your Office provides the final response to the requester.



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Importance of Communication

- Scope of the request
- Explain process to requester, including search methods and time required
- Any necessary consultations
- Interim/Rolling Responses
- Fees (if needed)



Department of Justice FOIA Guidelines

- Work with requesters in a spirit of cooperation
- Work actively to remove barriers to access and to help them understand the FOIA process and the nature of your records
- Ensure prompt communication with requesters
- When making disclosure determinations, confirm that you have applied the foreseeable harm standard



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Knowledge Check

You called the requester to discuss the scope of their request. The requester agreed to reduce the scope of their request by both subject and date range. How should you document this agreement?

- A. Case notes
- B. Email
- C. In your next official correspondence
- D. All of the above



Answer:

You called the requester to discuss the scope of their request. The requester agreed to reduce the scope of their request by both subject and date range. How should you document this agreement?

- A. Case notes
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Final Response

- Restate subject
- Explain search
- Disclosure determinations/exemptions, including confirmation of applying the foreseeable harm standard
- Exclusion language – law enforcement agencies
- FOIA Public Liaison
- OGIS notifications
- Administrative appeal language



Additional Assistance

Contact the FOIA Counselor Line at
202-514-FOIA [3642]



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Questions?



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