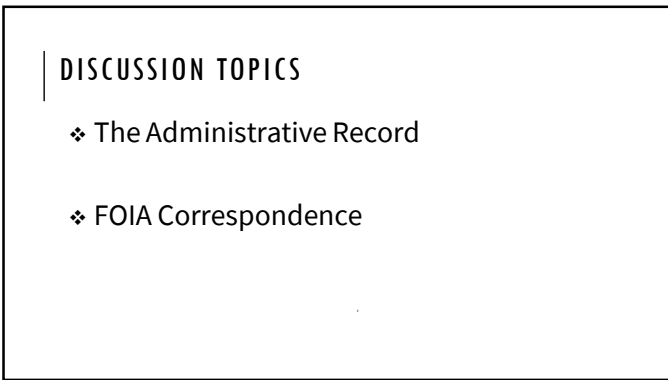
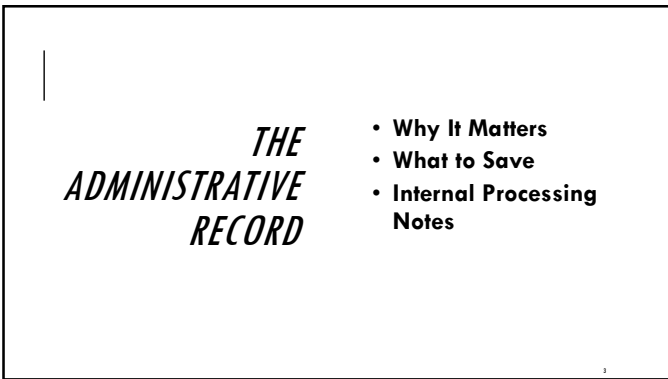


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WHY KEEP A THOROUGH ADMINISTRATIVE RECORD (I.E. CASE FILE)?

- Documents the when, why, how, what, and who of the request processing
- Crucial if administrative appeal and/or litigation
- Guards against memory loss, staff departures
- Provides accurate information to a potential future declarant
- Especially important to document adverse determinations

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WHAT TO SAVE — AT A MINIMUM:

- Request
- Search documentation
- Draft response:
 - Letter
 - Responsive records
 - Proposed redactions

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WHAT TO SAVE — IDEALLY:

Everything that reflects timing, actions, and determinations

- Communications with the requester:
 - Acknowledgement
 - Adverse determinations (e.g. fee category, fee waiver, expedited processing)
 - Responses (interim and final)
 - Documentation of any verbal conversations with the requester
- Consultations and referrals
- Correspondence or notes about communications with POCs, record custodians, SMEs, business submitters, other agencies, etc.
- Records: clean/original, redactions marked, and redacted applied

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INTERNAL PROCESSING NOTES

Memorialize everything!

- Save copies of emails that concern the processing of a request
- Use "notes" or similar section in the FOIA case management system
 - Administrative actions (e.g. related requests, tracking number changes)
 - Phone calls
 - Meetings
 - FOIA determinations (e.g. no responsive records, privileges, etc.)
- Use text files in the request folder to include procedural notes – date & action!

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FOIA CORRESPONDENCE

- **Acknowledgment**
- **Adverse initial determinations**
- **Unusual circumstances**
- **Fee estimates**
- **Response letters**

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THE ACKNOWLEDGMENT

1. **Tracking number**
2. **Date received**
3. **Estimated date of completion or relevant processing time (20 days, unusual circumstances)**
4. **Point of contact for status inquiries**

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INITIAL INTAKE DETERMINATIONS

1. Expedited processing
2. Fee waiver
3. Preferred fee category

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“UNUSUAL CIRCUMSTANCES” NOTIFICATION (>10 DAYS)

1. Provide requester with opportunity to **narrow scope** of request
2. Make **FOIA Public Liaison** available to aid the requester, and
3. Notify requester of right to seek dispute resolution services from the **Office of Government Information Services (OGIS)**.
4. Provide the contact information for the FOIA professional handling the request (optional)

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FEE ESTIMATES

Appeals/judicial review of fee issues are based on the admin record – put it in writing!

- Provide a fee estimate as soon as possible for anticipated search, review, and/or duplication costs
- You can toll processing as often as necessary to clarify fee issues!
- Challenges to estimated or assessed fees or to denials of fee waivers are subject to administrative appeal.
- Exhaustion of administrative remedies is required before a fee issue is ripe for judicial review.

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SAMPLE

- 3. The accuracy and magnitude of a commercial release. Whether the requester has a commercial interest that would be affected by the requested disclosure, and if so, how.
- 4. The privacy interest of disclosure. Whether the requester or the identified commercial interest of the requester is a U.S. citizen or, in comparison with the public interest in disclosure, that requester is primarily a foreign national interest of the requester.

[IF ANY AGENCY DETERMINATION WAS MADE: APPEAL, OIG, AND FOIA PUBLIC LIAISON LANGUAGE]

If you are not satisfied with Agency Name's determination, you may administratively appeal in writing to [Agency Name's FOIA Address] or by email to:

[Agency Name's Mailing Address]

An appeal should include a copy of the initial request, a copy of the letter denying the request, and a statement explaining why you believe the agency official denied your request for information.

Additionally, we may correct the effect of government information received under FOIA on the National Archives and Records Administration to request about the FOIA resolution on our own file. The contact information for FOIA is a part of [Agency Name] responses in 501 (b)(7)(C), 501 (b)(7)(D), and 501 (b)(7)(E).

Office of Government Information Services
National Archives and Records Administration
800 North Capitol Street
College Park, Maryland 20740-6001

You may also contact Agency Name's FOIA Public Liaison for assistance or request resolution at [Agency Name's FOIA Public Liaison's address] or [Agency Name's FOIA Public Liaison's phone number].

A request will be referred by Agency Name for review, responsive to your request if any responsive records are located, they will be reviewed for dissemination of information.

If you have any questions regarding your request, please contact FOIA Specialist [Name] at [Telephone] or [Email].

For additional information regarding Agency Name's FOIA program, please refer to the information located on our website at [Agency Name's website URL].

We appreciate the opportunity to assist you with this matter.

Sincerely,

[Name]

[Title]

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SAMPLE

[FOIA Name]

[Agency Name]

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RESPONSE LETTERS — REQUIRED

- The determination(s) and the reasons for it
- Availability of the agency's FOIA Public Liaison
- Name and title of the determining official

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RESPONSE LETTERS — REQUIRED (CONT'D)

For **adverse determinations**:

- Estimate **volume** of records withheld
 - Redacted records must indicate the exemption applied
- That agency considered the **foreseeable harm** in disclosure
- Provide **appeal rights** with no less than 90 days from the date of the determination to file the appeal
- Provide notice of the right of the requester to seek **dispute resolution** services from the **FOIA Public Liaison** or from **OGIS**.

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RESPONSE LETTERS — OPTIONAL

- Request description
- Amendment or clarification
- Procedural history
- Component that searched or where inquiry was made
- Scope of the search
- Address each requested item and specify the determination for each part
- Fee assessment
- FOIA Requester Service Center contact information
- FOIA Analyst's contact information for questions
- If an interim response:
 - That the request continues being processed
 - Provide appeal rights or address deferral or appeal rights

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RESPONSE LETTER — FOIA EXCLUSIONS

Criminal law enforcement agencies must address that the FOIA excludes the following:

1. Matters involving (b)(7)(A) records **AND** violation of criminal law **AND** the subject is not aware **AND** disclosure of the existence of records could reasonably be expected to interfere
2. Records under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier
3. For FBI: records pertaining to foreign intelligence or counterintelligence, or international terrorism, and the existence of the records is classified information as provided in subsection (b)(1)

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SAMPLE

TEMPLATE RESPONSE LETTER

[Date]

RESPONDENT AND CONTACT PERSON

[Respondent's Name]
[Organization]
[Address]
[City, State, ZIP]

To: Respondent or Director of Information ACTION Request No. [Year-Request]

Dear [Full Name]:

Thank you for your request for your FOIA request received [Date of Request], assigned tracking number [Tracking Number], via request ID: [Request ID].

[Quote identity or paraphrase of appropriate description of the records requested.]

Your request was processed under the FOIA, 5 U.S.C. § 552.

IF APPLICABLE: Full-text responses

A search was conducted by Program Office. Responsive records relating [Request] were located. The records are being returned to you as follows:

IF APPLICABLE: No responsive records

A search was conducted by Program Office. No records responsive to your request were located. [Explanation for no records. For example: "The records you requested [Request Name] were located and a response sent." "Therefore, Agency cannot [Explain] that there are no records responsive to your request."

IF APPLICABLE: Partially responsive

Upon inquiry, Program Office has indicated that [Explanation for why no records were returned]. Therefore, Agency cannot [Explain] that there are no records responsive to your request.

IF APPLICABLE: Full-text responses

A search was conducted by Program Office. Responsive records relating to [Request] were located. Upon review, Agency cannot [Explain] that there are no records responsive to your request, 5 U.S.C. § 552(b)(7), as described below.

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SAMPLE

[Respondent's Name]
[Tracking No.]

IF APPLICABLE: Partial-text responses

Upon review, Agency cannot [Explain] that there are no records responsive to your request, 5 U.S.C. § 552(b)(7)(C) and therefore that records would have an exempt portion for the exemption [Exemption].

IF APPLICABLE: EXEMPTIONS (LAW ENFORCEMENT)

Further, Agency cannot [Explain] that records have been released under 5 U.S.C. § 552(b)(7)(C) and therefore that records would have an exempt portion for the exemption [Exemption].

You were identified as a [Individual OR non-commercial scientific institution OR representative of the news media OR consultant OR "not other"] requester for purposes of the assessment in this instance, as described below.

If you are not satisfied with Agency's response to your request, you may submit a written appeal in writing to [Agency Address, Contact Information, or URL].

[Agency Address, Contact Information]

An appeal should include a copy of the initial request, a copy of the letter denying the request, and a statement explaining why you believe your appeal should be successful.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to request about the FOIA records process by email. The contact information is OGIS's email at ogis@nara.gov, telephone at 800-827-6888, or fax at 202-741-6098, or at <https://www.ogis.gov>.

Office of Government Information Services
National Archives and Records Administration
8600 Adelphi Road
College Park, Maryland 20740-6001

You may also contact Agency's Freedom of Information Act (FOIA) Public Liaison for assistance or dispute resolution at [Agency FOIA Public Liaison email address] or [Agency FOIA Public Liaison phone number].

If you have any questions regarding this matter, please contact [FOIA Specialist Name] at [Email Address] or [Phone Number].

Sincerely,

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SAMPLE

[Respondent's Name]
[Tracking No.]

[Date]

[Title]

[Office Name]

[Agency Name]

Enclosure(s): [Responsive Records for page(s)]

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OTHER PROCEDURAL CORRESPONDENCE

- Request amendments or clarifications
- Consultations and referrals
- Submitter notices (E.O. 12600)
- Internal clearances
- Record custodian/SME emails re search parameters, agency records, sensitivities

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