



# **Foreseeable Harm Standard**

**DOJ Office of Information Policy  
(DOJ OIP) Misinformation**

**+**

**Navy Misconduct and Idiocy?**

**PUBLIC COMMENT**

**October 14, 2022**

by Robert Hammond  
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## PREFACE – Why this matters!

The clear language of the statute and case law mandate that the agency not simply state they have considered the foreseeable harm (as DOJ OIP has recently opined) but clearly articulate what that harm is, and it cannot be speculative.

This is extremely important because as articulated (earlier) on DOJ OIP's website Vol. XV, No. 2 under OIP Guidance "Applying the foreseeable Harm Standard Under Exemption 5" DOJ states:

- "In short, it be shall the policy of the Department of Justice to defend the assertion of a FOIA exemption only in those cases where the agency reasonably foresees that disclosure would be harmful to an interest protected by that exemption."
- FOIA Update: OIP Guidance: Applying the "Foreseeable Harm" Standard Under Exemption Five | OIP | Department of Justice , <https://www.justice.gov/oip/blog/foia-update-oip-guidance-applying-foreseeable-harm-standard-under-exemption-five>

### **FOIA Advisory Committee and the Chief FOIA Officers Counsel.**

I hope that the FOIA Advisory Committee and the Chief FOIA Officers Counsel will address this matter to the benefit of requesters and agencies alike, recommending that both DOJ OIP and OGIS issue updated guidance that reflects the statutory language and all court decisions requiring agencies to articulate what the foreseeable harm is, and that articulation must be concrete not "speculative or a perfunctory state[ment]."

Further, DOJ OIP must reiterate its standing policy not to defend agencies in court who do not clearly articulate foreseeable harm for those exemptions covered by statute.

This presentation addresses the “Foreseeable Harm’ Standard though the lens of Navy misconduct and idiocy documented in a recent administrative appeal to FOIA Request DON-NAVY-2022-012074.

As to foreseeable harm in the instant case, Navy only stated that it had considered foreseeable harm (as apparently opined by DOJ OIP as being sufficient), whereas the clear language of the statute, legislative history, and every court opinion mandates that the agency articulate what the foreseeable harm is, and that articulation must be concrete.

### **DOJN JAG egregious violations of law and policy.**

In the attached Appeal of “Appeal of FOIA Request FOIA Request DON 22-A.4. DOJ JAG Case Processing Records of OGIS Mediation Navy Still Interested Letters,” Department of Navy’s Office of Judge Advocate General (DON JAG) committed egregious violations of law and policy.

### **Two contradictory IDA responses to my very same FOIA request.**

The Agency IDA (DON JAG) unlawfully and idiotically issued two disparate, contradictory IDA responses to my very same FOIA request closing my FOIA request at different times and for different reasons.

- The Agency’s IDA letter 5720, Ser 14/384 of August 30, 2022 states that 17 records responsive to my request had been located; that 16 responsive records were (unlawfully) withheld in full under exemption (b)(5) deliberative process and that the seventeenth record was being released with

(massive, unlawful) redactions under exemption (b)(6).

- Then, the Agency's IDA letter 5720, Ser 13/3FAo708.22 of September 7, 2022 stated that "Individuals who were most knowledgeable about the likely location of responsive records searched computer databases for any documents responsive to your request. No records responsive to your request were found."
- Both of those things cannot be true.

Clearly DON JAG cannot meet the foreseeable harm standard in its withholdings or redactions. It gets much worse.

### **Exemption B6.**

DON JAG's massive Exemption 6 privacy redactions to email addresses, etc., (with no foreseeable harm) are all in the public domain (for example having originated in emails from me as a private requester as part of my FOIA request) and posted on public websites.

As a matter of practice, Navy and DOD generally redact names and email addresses that are incontrovertibly in the public domain having been placed there by the agencies and/or employees themselves, and Navy/DOD know this in advance.

- In the height of idiocy, Navy redacted the email of DON JAG's nathaniel.a.bosiak.mil@us.navy.mil, whose name and email Navy released as a point of contact in its very same August 30, 2022 IDA denial letter where it redacted Bosiak in the redacted attachment .
- In the following September 7, 2022 letter, Navy unredacted many of the email addresses that it had redacted under B6 in its August 30, 2022 letter attachment just days before.
- The Agency cannot articulate a foreseeable harm in



redacting the email of OGIS Director Alina Semo (alina.semo@nara.gov;) which is posted on NARA's website.

- The Agency cannot articulate a foreseeable harm in redacting the email of GAO's James R. McTigue, Jr., Director, Strategic Issues (mctiguej@gao.gov), which is at page 14 in his March 29, 2022 public testimony to the Senate Judiciary Hearing on FOIA.
- The Agency cannot articulate a foreseeable harm in redacting the name of the Acting Archivist of the United States, Debra Wall, at page 2, despite her identity and email address being posted on NARA's website Meet NARA's Leadership | National Archives <https://www.archives.gov/about/organization/senior-staff>.
- The Agency cannot articulate a foreseeable harm in redacting the email of DON JAG's nathaniel.a.bosiak.mil@us.navy.mil, in the released record "email 1\_Redacted (Attachment D herein).whose name and email Navy released as a point of contact in its very August 30, 2022 IDA denial letter.

### **Exemption 5, Deliberative Process.**

- The Agency cannot articulate a foreseeable harm in its B5 withholdings as they involve antecedent factual content and do not involve "advisory opinions, recommendations, and deliberations comprising part of a process by which governmental decisions and policies are formulated."
- I may prepare public comments on DOD's extensive abuse of Exemption 5, including DOJ JAG's withholding under Exemption 5 innocuous identical content in the

very same email previously released, (the only downside being embarrassment of the sender documenting evident false FOIA reporting).

### **Other Nonsensical Misconduct.**

- Documented in my appeal itself.

### **OGIS Mediation.**

- I am seeking that OGIS assign an individualized case number to the matters addressed in my attached administrative appeal and engage in mediation directly with DOJ JAG, not the Navy FOIA public liaison, which is a distinctly separate right under the FOIA statute.
- By law, OGIS cannot refuse mediation, though I do not believe that OGIS has engaged in mediation for many years (due it inadequate funding) despite inaccurate Annual Ombuds Reports to Congress and the President.
- OGIS owes answers to the FOIA Advisory Committee and the Chief FOIA Officer's Counsel.
- Litigation cases and costs are skyrocketing, such that lack of mediation hurts requesters and agencies alike.
- (Then DOJ OIP's Annual FOIA Litigation and Compliance Reports are materially false, which is a topic for another time. DOJ's FOIA.gov data is massively false and unusable for any purpose as are many agency quarterly and annual FOIA reports)

**TRUTH, transparency, and accountability matter!**

## **BOOKMARKED OUTLINE**

- D.C. Circuit: FOIA's 'foreseeable harm' standard has teeth. Analysis by the Reporter's Committee for Freedom of the Press, Adam. A. Marshall July 26, 2021
- Hammond October 12, 2022 8:45 PM email to the FOIA Advisory Committee, DOD's Chief FOIA Officer, DOJ U.S. Associate Attorney General (Ms. Gupta), et. al.
- Hammond Expedited Administrative Appeal of DON-NAVY-2022-012074 with enclosures
  - Enclosure 1 is my FOIA request (containing all email addresses that the agency subsequently redacted).
  - Enclosure 2 is the Agency's Initial Denial Authority (IDA) response letter dated September 7, 2022 falsely claiming that adequate searches were performed and that no responsive records were located.
  - Enclosure 3 (in contradiction) is the Agency's earlier IDA letter of August 30, 2022 stating that 17 records responsive to my request had been located; that 16 responsive records were (unlawfully) withheld in full under exemption (b)(5) deliberative process
  - Enclosure 4 is the Agency's redacted records release of August 30, 2022 entitled "Email 1\_Redacted" citing countless Exemption 6 privacy redactions for names and email addresses that are incontrovertibly already in the public domain (and posted to public websites) including DON JAG's nathaniel.a.bosiak.mil@us.navy.mil, whose name and

email Navy released as a point of contact in its very same August 30, 2022 IDA denial letter.

- Enclosure 5 is my public comment posting to the Office of Government Information Services (OGIS) annual open meeting “HOT DOD MASSIVE FALSE REPORTING PART II + NAVY STILL INTERESTED ABUSE + COVER-UP?” which is posted on multiple public websites and contains the unlawful email addresses redacted under B6.

Sample Hammond public comments are hyperlinked below.

- Public Comments Submitted to the Chief FOIA Officers Council <https://www.archives.gov/ogis/about-ogis/chief-foia-officers-council>
- OGIS Annual Open Meeting Public comments <https://www.archives.gov/ogis/outreach-events/annual-open-meeting>
- General <https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20>

D.C. Circuit: FOIA's 'foreseeable harm' standard has teeth.  
Analysis by the Reporter's Committee for Freedom of the  
Press, Adam. A. Marshall July 26, 2021



## D.C. Circuit: FOIA's 'foreseeable harm' standard has teeth

**REPORTERS  
COMMITTEE**  
FOR FREEDOM OF THE PRESS

# SPECIAL ANALYSIS

FOIA and the 'foreseeable harm' standard

The court's ruling sets a high bar for the government to withhold records under FOIA's "deliberative process" privilege.

**ADAM A. MARSHALL** • *July 26, 2021*

In a case brought by the Reporters Committee and the Associated Press, the U.S. Court of Appeals for the D.C. Circuit [issued an opinion](#) earlier this month with its most expansive and detailed explanation of the Freedom of Information Act's "foreseeable harm" provision to date, holding that the FBI failed to justify withholding documents regarding the agency's impersonation of an Associated Press editor in 2007.

Congress added the foreseeable harm provision to FOIA in 2016 in an effort to limit agencies' overuse and abuse of FOIA's exemptions. Withholdings have [skyrocketed](#) in recent years, generating widespread concern that FOIA has tilted so far in favor of government secrecy that it is failing to serve its [core purpose](#) of ensuring the public knows what the government is up to. To counteract that secrecy, the foreseeable harm provision prohibits agencies from withholding information — even if it falls within the scope of one of FOIA's exemptions — unless the agency

reasonably foresees that disclosure of the record would harm an interest protected by the exemption, or disclosure is prohibited by law.

Although this provision is more than five years old, the D.C. Circuit's opinion in *Reporters Committee v. Federal Bureau of Investigation* is only the court's second opportunity to address the standard, and it is the first time it has offered a robust description of what the provision requires. In a prior [decision](#) from 2020, the D.C. Circuit held that the Justice Department could withhold internal forms used during FOIA administrative appeals, but that decision offered little in the way of explaining the contours of the foreseeable harm standard.

## Impersonating an editor

The factual background to *Reporters Committee* starts in 2007, when an FBI agent [impersonated an AP editor](#) and created a fake news article to deliver malware to the computer of a juvenile who was suspected of making anonymous bomb threats to his Seattle-area high school. When the incident was uncovered by a staffer at the American Civil Liberties Union in 2014, it sparked outcry from the press and public, and even prompted inquiries from high-ranking members of Congress. In response to the outrage, then-FBI Director James Comey sent a [letter](#) to the editor of The New York Times defending the impersonation tactic.

The Reporters Committee and the AP submitted FOIA requests to the FBI to learn more about what happened. Documents later [obtained](#) through the organizations' lawsuit against the agency showed that the FBI had failed to follow its internal rules before its agent posed as a member of the news media, although it claimed the failure to secure internal approval was "not ... unreasonable." Nonetheless, following an inspector general [investigation](#), the FBI [adopted a new policy](#) in 2016 providing "guidance" for the "impersonation of members of the news media during undercover activity or an undercover operation," which also prohibited such conduct without high-level approval.

At issue in the Reporters Committee's appeal to the D.C. Circuit were additional records regarding the FBI's 2007 impersonation and the fallout within the government after it was publicly revealed. Those included emails between FBI personnel and Comey about his letter to the Times, drafts of the inspector general report and the FBI's "factual accuracy" comments on it, drafts of slides concerning undercover operations, and internal FBI emails regarding recommendations for changes in the approval process for impersonating the news media. The FBI cited the [deliberative process privilege](#) under [Exemption 5](#), to withhold the records.

## The D.C. Circuit's ruling

The D.C. Circuit began its examination of the foreseeable harm provision by affirming that it “imposes an independent and meaningful burden on agencies” if they are to withhold records from the public; “generalized assertions” are not sufficient, nor are “mere speculative or abstract fears, or fear of embarrassment.” And with respect to the deliberative process privilege in particular, the Court noted that Congress was particularly focused on “overuse and abuse of Exemption 5 and the deliberative process privilege.”

With that backdrop, the Court articulated the following test that must be satisfied for the government to withhold information under the deliberative process privilege and the foreseeable harm provision:

*[T]he foreseeability requirement means that agencies must concretely explain how disclosure “would” — not “could” — adversely impair internal deliberations. ... A “perfunctory state[ment] that disclosure of all the withheld information — regardless of category or substance — would jeopardize the free exchange of information between senior leaders within and outside of the [agency]” will not suffice. ... Instead, what is needed is a focused and concrete demonstration of why disclosure of the particular type of material at issue will, in the specific context of the agency action at issue, actually impede those same agency deliberations going forward. Naturally, this inquiry is context specific.*

Applying that test, the Court held that the FBI failed to justify its withholding of the draft inspector general report, the factual accuracy comments provided to the inspector general, and the draft internal slides. The government’s declarations were both vague and generic, amounting to nothing more than a “series of boilerplate and generic assertions that release of any deliberative material would necessarily chill internal discussions.”

The Court’s biting descriptions of the declarations as “scanty,” “cookie-cutter,” and “perfunctory” were reinforced by its observation that a declaration submitted by the FBI’s FOIA chief in a different case in 2009 was almost identical to the one submitted in this case, even after the change in the law in 2016. Thus, the agency ignored its obligation to “specifically and thoughtfully determine whether it reasonably foresees that disclosure of each particular record would harm an interest protected by the exemption.”

With respect to the emails regarding Comey’s letter to the editor and the internal FBI emails regarding changes in the approval process, the Court did not look to the FBI’s declarations, but

rather held that the “sensitivity of the context in which these conversations arose as well as their subject matter, and the need for confidentiality in discussions of undercover tactics, together provide the particularized context for a finding of foreseeable harm as to both sets of emails.”

The Court’s opinion is a powerful articulation of what the foreseeable harm standard requires. By affirming that “boilerplate, unparticularized, and hypothesized assertion of harm” are insufficient, Congress’ 2016 amendments have been shown to have teeth. And importantly, the *Reporters Committee* decision puts to bed the argument — repeatedly [made](#) by the Justice Department — that the foreseeable harm provision did not significantly alter an agency’s obligations under FOIA.

The consequences of the decision from the D.C. Circuit — which oversees the vast majority of FOIA litigation in the United States — are already apparent. Just days later, a federal judge cited it during a hearing in a case regarding records about Gina Haspel, the CIA director under former President Donald Trump. Judge Carl J. Nichols of the U.S. District Court for the District of Columbia [pushed back](#) against a government attorney’s claim that releasing the records would chill the discussions of agency personnel, noting that “boilerplate or general assertions” of harm is no longer sufficient.

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Argued January 12, 2021

Decided July 2, 2021

No. 20-5091

REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS AND  
ASSOCIATED PRESS,  
APPELLANTS

v.

FEDERAL BUREAU OF INVESTIGATION AND UNITED STATES  
DEPARTMENT OF JUSTICE,  
APPELLEES

Appeal from the United States District Court  
for the District of Columbia  
(No. 1:15-cv-01392)

*Katie Townsend* argued the cause and filed the briefs for appellants.

*Joseph F. Busa*, Attorney, U.S. Department of Justice, argued the cause for appellees. With him on the brief were *Jeffrey Bossert Clark*, Acting Assistant Attorney General at the time the brief was filed, and *H. Thomas Byron, III*, Attorney.

Before: MILLETT, KATSAS, and WALKER, *Circuit Judges*.



Hammond October 12, 2022 8:45 PM email to the FOIA Advisory  
Committee, DOD's Chief FOIA Officer, DOJ U.S. Associate  
Attorney General (Ms. Gupta), et. al.

## Hammond October 12, 2022 8:45 PM email

**From:** foia.compliance@gmail.com <foia.compliance@gmail.com>  
**Sent:** Wednesday, October 12, 2022 8:45 PM  
**To:** 'FOIA Advisory Committee' <foia-advisory-committee@nara.gov>  
**Cc:** joo.y.chung2.civ@mail.mil; nathaniel.a.bosiak.mil@us.navy.mil; Vanita.Gupta19@usdoj.gov; bobak.Talebian@usdoj.gov  
**Subject:** FOIA Advisory Committee. Foreseeable Harm Standard + FW: FOIA Appeal DON-NAVY-2023-000419 Submitted

FOIA Advisory Committee,

As my time permits, I may prepare public comments related to DOJ OIP's recent improper guidance regarding the foreseeable harm standard and other matters discussed in my appeal. The clear language of the statute and case law mandate that the agency not simply state they have considered the foreseeable harm (as DOJ OIP has recently opined) but clearly articulate what that harm is, and it cannot be speculative. This is extremely important because as articulated (earlier) on DOJ OIP's website Vol. XV, No. 2 under OIP Guidance "Applying the foreseeable Harm Standard Under Exemption 5" DOJ states:

"In short, it be shall the policy of the Department of Justice to defend the assertion of a FOIA exemption only in those cases where the agency reasonably foresees that disclosure would be harmful to an interest protected by that exemption."

[FOIA Update: OIP Guidance: Applying the "Foreseeable Harm" Standard Under Exemption Five | OIP | Department of Justice](https://www.justice.gov/oip/blog/foia-update-oip-guidance-applying-foreseeable-harm-standard-under-exemption-five), <https://www.justice.gov/oip/blog/foia-update-oip-guidance-applying-foreseeable-harm-standard-under-exemption-five>

I hope that the FOIA Advisory Committee will address this matter to the benefit of requesters and agencies alike. We should not have to wait for the next litigation which the agency will lose.

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This is an extension of my public comment "HOT DOD MASSIVE FALSE REPORTING PART II + NAVY STILL INTERESTED ABUSE + COVER-UP?" at <https://www.documentcloud.org/documents/22122229-dod-massive-false-reporting-part-ii-still-interested-abuse-updated-july-27-2022>. See also <https://www.archives.gov/files/ogis/outreach-events/annual-open-meeting/dod-massive-false-reporting-part-ii-still-interested-abuse.-updated-july-27-2022.pdf>

Navy has no idea whatsoever of what they are doing.

Navy issued two different, contradictory IDA determination letters to the same FOIA request (DON-NA VY-2022-012074). In a September 7, 2022 IDA letter, Navy proclaimed that it had conducted searches and found no responsive records, while in an earlier August 30, 2022 IDA determination Navy stated that they had found 17 responsive records and was (unlawfully) withholding 16 records under B5 with the 17<sup>th</sup> released record containing countless unlawful B6 redactions of email addresses that originated in my own email and which are all posted on public web sites. In the height of idiocy, Navy redacted the email of DON JAG's

## Hammond October 12, 2022 8:45 PM email

[nathaniel.a.bosiak.mil@us.navy.mil](mailto:nathaniel.a.bosiak.mil@us.navy.mil), whose name and email Navy released as a point of contact in its very same August 30, 2022 IDA denial letter. In the September 7, 2022 letter, Navy unredacted many of the email addresses that it had redacted under B6 in its August 30, 2022 letter.

Then, Navy continues to engage in massive quarterly and annual FOIA reporting, along with other DOD entities.

//

Ms. Joo Chung (DOD Chief FOIA Officer),

These are matters worthy of your attention. I would much prefer to resolve such issues directly with DOD, if you are agreeable.

With my deep respect,

Robert Hammond

**From:** [no-reply@foiaonline.gov](mailto:no-reply@foiaonline.gov) <[no-reply@foiaonline.gov](mailto:no-reply@foiaonline.gov)>

**Sent:** Wednesday, October 12, 2022 7:45 PM

**To:** [perseverance2013@aol.com](mailto:perseverance2013@aol.com)

**Subject:** FOIA Appeal DON-NAVY-2023-000419 Submitted

This message is to notify you of a new appeal submission to the FOIAonline application. Appeal information is as follows:

- Appeal Tracking Number: DON-NAVY-2023-000419
- Request Tracking Number: DON-NAVY-2022-012074
- Requester Name: robert hammond
- Date Submitted: 10/12/2022
- Appeal Status: Submitted

Description: See PDF.

Subject: Expedited Appeal of FOIA Request FOIA Request DON 22-A.4. DOJ JAG Case Processing Records of OGIS Mediation Navy Still Interested Letters

DON Assigned Agency FOIA Case Number DON-NAVY-2022-012074

[TRUNCATED]

Hammond Expedited Administrative Appeal of

DON-NAVY-2022-012074 with enclosures

Robert Hammond  
perseverance2013@aol.com

October 12, 2022

Office of the Judge Advocate General  
General Litigation Division (Code 14)  
1322 Patterson Ave., SE, Suite 3000  
Washington Navy Yard, DC 20374-5066  
Via; <https://foiaonline.regulations.gov>

Subject: Expedited Appeal of FOIA Request FOIA Request DON 22-A.4. DOJ JAG Case  
Processing Records of OGIS Mediation Navy Still Interested Letters

DON Assigned Agency FOIA Case Number DON-NAVY-2022-012074

**\*\*\* This appeal will be timely for judicial review within twenty working days \*\*\***

Note: In support of my request for expedited processing, I may create unique content for posting to public websites that contains this administrative appeal, the Agency's appellate determination to it and recommendations for combatting Agency malfeasance identified herein.

Dear Sir:

I am submitting this expedited appeal for my subject FOIA request.

- **Enclosure 1** is my FOIA request (containing all email addresses that the agency subsequently redacted).
- **Enclosure 2** is the Agency's Initial Denial Authority (IDA) response letter dated September 7, 2022 falsely claiming that adequate searches were performed and that no responsive records were located.
- **Enclosure 3** (in contradiction) is the Agency's earlier IDA letter of August 30, 2022 stating that 17 records responsive to my request had been located; that 16 responsive records were (unlawfully) withheld in full under exemption (b)(5) deliberative process
- **Enclosure 4** is the Agency's redacted records release of August 30, 2022 entitled "Email 1\_Redacted" citing countless Exemption 6 privacy redactions for names and email addresses that are incontrovertibly already in the public domain (and posted to public websites) including DON JAG's [nathaniel.a.bosiak.mil@us.navy.mil](mailto:nathaniel.a.bosiak.mil@us.navy.mil), whose name and email Navy released as a point of contact in its very same August 30, 2022 IDA denial letter.
- **Enclosure 5** is my public comment posting to the Office of Government Information Services (OGIS) annual open meeting "HOT DOD MASSIVE FALSE REPORTING PART II + NAVY STILL INTERESTED ABUSE + COVER-UP?" which is posted on multiple public websites and contains the unlawful email addresses redacted under B6.



While it is unlawful for an IDA to release two disparate final determination letters, let alone two contradicting letters, I am appealing them both. FOIAonline states that the disposition is “Full Denial Based on Exemptions.”

The Agency’s idiocy in releasing two contradicting IDA determinations is not only unlawful, but it will also result in false FOIA reporting to DOJ.

### **RECORDS SOUGHT VIA FOIA.**

#### **Expedited FOIA Request DON 22-A.4. DOJ JAG Case Processing Records of OGIS Mediation Navy Still Interested Letters. See Format. See PDF.**

I am respectfully seeking:

1. All records of any kind **in the possession of DON JAG** from August 2, 2022 10:15 AM to present related to my email “DOJ Compliance Inquiry, OGIS Mediation +RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting)” and contact with the Office of Government Information Services. See Attachment A.
2. Records would include, but not be limited to:
  - a. All emails.
  - b. All records of communication with and responses by NARA’s Office of Government Information Services, including, but not limited to ogis@nara.gov; alina.semo@nara.gov; debra.wall@nara.gov; 'NARA NGC General Counsel FOIA' <foia@nara.gov>; alina.semo@nara.gov; 'Robert Hammond' <dod.foia.pa@gmail.com>; sheela.portonovo@nara.gov; teresa.brady@nara.gov; CHRISTA.Lemelin@nara.gov; daniel.levenson@nara.gov; kimberly.reed@nara.gov; carrie.mcguire@nara.gov; dwaine.bacon@nara.gov
  - c. All records of communication with and responses by Navy’s FOIA Public Liaison, Christopher Julka, Christopher.a.julka@navy.mil:
  - d. All internal Department of Navy Office of the Judge Advocate General (DON JAG) correspondence
  - e. Any communications by email, fax or in any other format between **DOJ JAG** any other entity, including DONFOIA-PA. Principals at DONFOIA-PA, whose information is in the public Domain, includes:

Richard R. Strong  
CNO/SECNAV  
Deputy Director, FOIA/Privacy  
Department of the Navy  
P-202-685-6546  
F-202-685-6580  
[Richard.r.strong@navy.mil](mailto:Richard.r.strong@navy.mil)

Robin. Patterson  
Head, SECNAV/CNO FOIA/PA Program Office (DNS-36).  
CNO Office of The Director, Navy Staff  
Organization and Management Division

Joshua Portner  
SECNAV/CNO FOIA Requester Service Center (DNS-36)  
Contractor Support  
(202) 685-6517  
[joshua.portner.ctr@navy.mil](mailto:joshua.portner.ctr@navy.mil)

- f. All records of communication with the Office of DOD's Chief FOIA Officer, Joo Chung and her staff.
3. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

### **BASIS FOR EXPEDITED APPEAL**

1. **Appeal Must be Expedited.** In as much as my FOIA request sought expedited processing, this appeal must be expedited for the same reasons.
2. **Overview of Appeal Issues.** As documented below, this Appeal addresses the following:
  - a. Failure to timely respond to my request for expedited processing and unlawful denial.
  - b. Unlawful issuing two contradictory appellate determinations.
  - c. Failure to Post Correspondence to FOIAonline. Violation of SECNAVINST 5720.G
  - d. Failure to return a copy of my original FOIA request, which is an official record in the Agency's possession.
  - e. Inadequate search
  - f. Failure to articulate foreseeable harm in withholdings.
  - g. Unlawful claim of Exemption 5.
  - h. Unlawful claim of Exemption 6
3. **Expedited Processing Denial.**
  - a. **The Agency failed to respond to my request for expedited processing within ten days as mandated by statute and DOJ guidance.**

An agency must make a determination with respect to a request for expedited processing within 10 calendar days. 5 U.S.C § 552(a)(6)(E)(ii)(I). Notwithstanding clause (i), regulations under this subparagraph must ensure— (I) that a determination of whether to provide expedited processing shall be made, and notice of the determination shall be provided to the person making the request, within 10 days after the date of the request; and (II) expeditious consideration of administrative appeals of such determinations of whether to provide expedited processing.

- b. **The Agency's expedited processing denial is flawed and does not accurately address my basis for expedited processing or how my request does not meet requirements**
- i. The expedited processing decision errantly states:  
Expedited Processing Disposition Reason: Request did not contain evidence of imminent threat to an individual or urgency to inform the public of information requested.
  - ii. In contrast, my request for expedited processing states:  
**EXPEDITED PROCESSING.**
    1. Failure to obtain the records on an expedited basis could reasonably be expected to result in an imminent loss of substantial due process rights related to the FOIA requests cited in the "still interested" inquiries.
    2. The subject is of widespread and exceptional media interest and the information sought involves possible questions about the government's integrity that affect public confidence.
      - a. As DOD knows, while I am an "other requester" I am an individual engaged in disseminating information in order to inform the public concerning actual or alleged federal government activity. Information is urgently needed for that purpose
      - b. I prepare extended Public Comment for open FOIA meetings and regularly communicate with other open government entities and interested parties.
      - c. Errant FOIA reporting and other matters of public interest are at issue.
  - iii. The Agency did not address at all my incontrovertible claim that I will experience substantial loss of due process rights related to the FOIA requests cited in the still interested inquiries.
  - iv. The Agency cannot deny that the information sought involves questions about the government's integrity that affect public comment.
  - v. The agency cannot deny that the information is of exceptional media interest. OGIS issued guidance as a result of my complaint regarding Navy's unlawful still interested inquiries.
  - vi. See my public comment at Enclosure 3, "HOT DOD MASSIVE FALSE REPORTING PART II + NAVY STILL INTERESTED ABUSE + COVER-UP?" at <https://www.documentcloud.org/documents/22122229-dod-massive-false-reporting-part-ii-still-interested-abuse-updated-july-27-2022>
  - vii. Additionally, I am an individual/organization primarily engaged in the dissemination of information who can prove the information is urgently needed to inform the public concerning some actual or alleged government activity. My primary activity is informing the public, which I do through a variety of means, such as open meeting public comments, blogs, etc., and I may from time to time collaborate on articles. There is extraordinary, off the charts interest in this matter and NARA's execution. I make oral public comments at every open FOAI meeting. I have an active email

distribution list of Chief FOIA Officers, FOIA professionals, FOIA advocacy groups media and interested parties. I also communicate regularly with members of Congress.

See examples below.

- Public Comments Submitted to the Chief FOIA Officers Council  
<https://www.archives.gov/ogis/about-ogis/chief-foia-officers-council>
- Public Comments Submitted to the FOIA Advisory Committee | National Archives <https://www.archives.gov/ogis/foia-advisory-committee/public-comments>
- OGIS Annual Open Meeting Public comments  
<https://www.archives.gov/ogis/outreach-events/annual-open-meeting>
- Document Cloud. Org  
<https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20> (e.g., “Sample FOIA Template With Recent Developments to Combat Agency Misconduct.”)

**4. Two Unlawful, Disparate, Contradictory IDA Letters.**

- a. The Agency IDA unlawfully issued two disparate, contradictory IDA responses to my FOIA request both closing my FOIA request at different times and for different reasons.
  - i. Only one IDA determination is permitted by law and DOJ OIP policy.
  - ii. Issuing two disparate, contradictory IDA letters results in false FOIA reporting both as to the processing time and the IDA determination reasons for denial.
  - iii. The Agency’s IDA letter 5720, Ser 14/384 of August 30, 2022 states that 17 records responsive to my request had been located; that 16 responsive records were (unlawfully) withheld in full under exemption (b)(5) deliberative process and that the seventeenth record was being released with (massive, unlawful) redactions under exemption (b)(6). (See Enclosure 2.)
  - iv. The Agency’s IDA letter 5720, Ser 13/3FAo708.22 of September 7, 2022 stated that “Individuals who were most knowledgeable about the likely location of responsive records searched computer databases for any documents responsive to your request. No records responsive to your request were found.”
  - v. Both of those things cannot be true.

**5. Failure to Post Correspondence to FOIAonline. Violation of SECNAVINST 5720.G.**

- a. While the IDA determination letters state that they were processed under SECNAVINST 5720.G, the Agency violated its own instruction and the Administrative Procedures Act in not posting all correspondence to FOIAonline.

- i. “FOIA compliance includes requiring use of FOIA online to process and track all FOIA requests, consultations, and appeals.”
- ii. “... participation in FOIA online, which is mandatory for all DON FOIA activities;”
- iii. “Full participation includes providing all input to FOIA online necessary to ensure complete tracking and data availability for all mandated FOIA reports, specifically by:
  - ...
  - (4) Uploading to FOIA online all response letters;

**6. Failure to Release All Responsive Records – Agency Copy of my FOIA Request.**

- a. There can be no question that my FOIA request (once received by the Agency) is an official Agency record subject to FOIA that exists and is in the Agency’s possession at the time of my FOIA request.

44 U.S. Code § 3301 - Definition of records

(1) (A) includes all recorded information, regardless of form or characteristics, made or received by a Federal agency under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the United States Government or because of the informational value of data in them;

- b. In the past DON JAG has improperly stated that there is no requirement under FOIA to return a copy of the FOIA request, whereas when specifically sought under FOIA as I have done the Agency copy is an official record responsive to my request that the agency must release.

**7. Adequacy of the Agency Search.**

- a. The September 7, 2022 IDA determination letter states: “Individuals who were most knowledgeable about the likely location of responsive records searched computer databases for any documents responsive to your request. No records responsive to your request were found.”
- b. The above cannot be true as the earlier IDA letter of August 30, 2022 states that 17 responsive records had already been located. The appellate authority must grant my appeal on this basis alone.
- c. The IDA letter of August 30, 2022 does not describe the searches as mandated by SECNAVINST 5720.42G) which mandates “(4) A brief explanation of any search conducted, including locations and keywords, if used.”
- d. The IDA letter of August 30, 2022 does not describe the manner of searching including key words as mandated by SECNAVINST 5720.42G) which mandates “(4) A brief explanation of any search conducted, including locations and keywords, if used.”

**8. Failure to articulate foreseeable harm in withholdings.**

- a. As further documented in paragraphs 9 and 10 below, unlawful B6 redactions and unlawful B5 withholding the Agency has not and cannot **articulate** any foreseeable harm.



- b. The 2016 amendments to FOIA[1] added a foreseeable harm provision to the statute. After its enactment, "the government's successful invocation of a FOIA exemption cannot justify its withholding of exempt material without a more particularized inquiry into what sort of foreseeable harm would result from the material's release.
- c. The Agency must **articulate** the foreseeable harm, not just cite that it has considered foreseeable harm.
  - i. Congress added the distinct foreseeable harm requirement to foreclose the withholding of material unless the agency can "articulate both the nature of the harm [from release] and the link between the specified harm and specific information contained in the material withheld." H.R.REP.NO.391, at 9.
    - 1. Agencies cannot rely on "mere 'speculative or abstract fears,' or fear of embarrassment" to withhold information. S.REP.NO.4, at 8.
  - ii. Reporters Committee for Freedom of the Press v. Federal Bureau of Investigation, No. 20-5091 (D.C. Cir 2021), [https://www.cadc.uscourts.gov/internet/opinions.nsf/B916D6EB05FB7C69852587060050631E/\\$file/20-5091-1904901.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/B916D6EB05FB7C69852587060050631E/$file/20-5091-1904901.pdf)
    - 1. In the context of withholdings made under the deliberative process privilege, the foreseeability requirement means that agencies must concretely explain how disclosure "would"—not "could"—adversely impair internal deliberations. [...] A perfunctory statement that disclosure of all the withheld information—regardless of category or substance—would jeopardize the free exchange of information between senior leaders within and outside of the agency will not suffice. [...] Instead, what is needed is a focused and concrete demonstration of why disclosure of the particular type of material at issue will, in the specific context of the agency action at issue, actually impede those same agency deliberations going forward.
  - iii. Ecological Rights Foundation v. FEMA, No. 16-cv-05254-MEJ, 2017 WL 5972702 (N.D. Cal., Nov. 30, 2017):
    - 1. FEMA fails to explain how disclosure would expose FEMA's decision-making process so as to discourage candid discussion. FEMA also does not provide any justification for how the agency would be harmed by disclosure as required by the FOIA Improvement Act of 2016. 5 U.S.C. § 552(a)(8)(A)(i). Absent a showing of foreseeable harm to an interest protected by the deliberative process exemption, the documents must be disclosed. In failing to provide basic information about the deliberative process at issue and the role played by each specific document, FEMA does not meet its burden of supporting its withholdings with detailed information pursuant to the deliberative process privilege.
- d. The Agency cannot articulate a foreseeable harm in redacting the email of OGIS Director Alina Semo ([alina.semo@nara.gov](mailto:alina.semo@nara.gov);) which is posted o NARA's website.

- e. The Agency cannot articulate a foreseeable harm in redacting the email of GAO's James R. McTigue, Jr., Director, Strategic Issues ([mctiguej@gao.gov](mailto:mctiguej@gao.gov)), which is at page 14 in his March 29, 2022 public testimony to the Senate Judiciary Hearing on FOIA.
- f. The Agency cannot articulate a foreseeable harm in redacting the name of the Acting Archivist of the United States, Debra Wall, at page 2, despite her identity and email address being posted on NARA's website [Meet NARA's Leadership | National Archives https://www.archives.gov/about/organization/senior-staff](https://www.archives.gov/about/organization/senior-staff).
- g. The Agency cannot articulate a foreseeable harm in redacting the email of DON JAG's [nathaniel.a.bosiak.mil@us.navy.mil](mailto:nathaniel.a.bosiak.mil@us.navy.mil), in the released record "email 1\_Redacted (Attachment D herein).whose name and email Navy released as a point of contact in its very August 30, 2022 IDA denial letter.
- h. The Agency cannot articulate a foreseeable harm in its B5 withholdings as they involve antecedent factual content and do not involve "advisory opinions, recommendations, and deliberations comprising part of a process by which governmental decisions and policies are formulated."

**9. Improper/Unlawful B6 Redactions.**

- a. The Agency bears the burden of proof regarding its unlawful B6 redactions; however, below I will offer representative examples documenting that the email addresses are already in the public domain. *See also* foreseeable harm examples above.
- b. Navy (and DOD generally) has an unlawful practice of redacting names and email addresses under Exemption 6 without doing any research to ascertain if the content is already in the public domain. Navy does this even in FOIA request content originated by a private requester in the public domain, such that there can not be any dispute that the content is already in the public domain.
- a. **The redacted names and email addresses are all in public domain.** The redacted names and email addresses are already in the public domain, having been released countless times in the normal course of FOIA and or Privacy Act Operations by DOD and often the persons themselves. Many are also posted on Agency websites as FOIA and Privacy Act points of contact.
- b. **As a general matter, “[o]ne can have no privacy interest in information that is already in the public domain, especially when the person asserting his privacy is himself responsible for placing that information into the public domain. See *Citizens for Responsibility & Ethics in Wash.*, 2012 WL 45499 at \*6; see also Department of Justice, Office of Information Policy, Exemption 6 at 435, [http://www.justice.gov/oip/foia\\_guide09/exemption6.pdf](http://www.justice.gov/oip/foia_guide09/exemption6.pdf) (“Unless the information has become ‘practically obscure’ . . . there is generally no expectation of privacy regarding information that is particularly well known or is widely available within the public domain.”).**
- c. All redacted email addresses are contained in my FOIA request attachment. As I am a private requester in the public domain, there cannot be any question that every email address is incontrovertibly already in the public domain.

- d. Every redacted email address is in the public domain and on multiple public websites within my public comments [DOD MASSIVE FALSE REPORTING PART II + Still Interested Abuse. Updated July 27, 2022](#) (<https://www.documentcloud.org/documents/22122229-dod-massive-false-reporting-part-ii-still-interested-abuse-updated-july-27-2022>
  - i. See also <https://www.archives.gov/files/ogis/outreach-events/annual-open-meeting/dod-massive-false-reporting-part-ii-still-interested-abuse.-updated-july-27-2022.pdf>
- e. DOD recently twice released those very same email addresses of its employees to me, knowing that the Agency's response would place those email addresses in the Public Domain forever. DOD cannot redact email addresses that are in the public domain, placed there by DOD itself.
  - DOD Chief FOIA Officer Report 2021 (<https://www.muckrock.com/foi/united-states-of-america-10/dod-chief-foia-officer-report-2021-113682/> ).
  - Department of Defense Freedom of Information Act (FOIA) Annual Report for Fiscal Year 2020 (<https://www.muckrock.com/foi/united-states-of-america-10/department-of-defense-freedom-of-information-act-foia-annual-report-for-fiscal-year-2020-114027/> )
- f. The Agency is redacting my name and email address, despite me having placed them into the public domain in public comments to open FOIA meetings (e.g., see above).
- c. **Government misconduct.** Government misconduct is at issue with regard FOIA/PA processes, including abuse of “still interested” letters, improper case closure and false FOIA reporting. The public interest is particularly high where government misconduct is concerned. See *Trentadue v. Integrity Comm.*, 501 F.3d 1215, 1234 (10th Cir. 2007).
- d. **The Agency has not articulated any clearly unwarranted invasion of privacy, direct threats to privacy or substantial probability thereof.** The U.S. Supreme Court has clarified that the exemption is “directed at threats to privacy more palpable than mere possibilities,” (*Rose*, 425 U.S. at 381 n.19.) and the U.S. Court of Appeals for the D.C. Circuit requires the government to show a “substantial probability that the disclosure will lead to the threatened invasion.
- e. **Disclosure of names is specifically authorized by DOD Policy.** DoD 5400.11-R, May 14, 2007, C4.2.2. Disclosures Required by FOIA. Disclosure of names is also authorized by OPM.
- f. **DOD has not demonstrated any Substantial/De Minimis Privacy Interests.**
- g. **Derivative Use.** There is a public interest in the release of the information in my own and others' ability to use it to obtain additional information. See *Ray*, 502 U.S. at 178.

#### **10. Improper/Unlawful B5 Redactions.**

- a. My FOIA request at issue (DON-NAVY-2022-012074) seeks records related to an email that I sent, “DOJ Compliance Inquiry, OGIS Mediation +RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting)”

- b. As such, the 16 withheld records under Exemption 5 involve antecedent factual content and do not involve "advisory opinions, recommendations, and deliberations comprising part of a process by which governmental decisions and policies are formulated."
- c. The Agency is required to but has not and cannot articulate any deliberations that "advisory opinions, recommendations, and deliberations comprising part of a process by which governmental decisions and policies are formulated."
- d. The Agency has not and cannot articulate any foreseeable harm in withholding the records.

**APPELLATE AUTHORITY ACTION SOUGHT. I am seeking that the appellate authority:**

1. Address each of the ten elements of the basis of my appeal separately, addressing all subparagraphs. Do not paraphrase my appeal; address it in its entirety.
2. Grant each element and element of my appeal.
3. **Personally**, review the name redacted Should the appellate authority not do this or should an independent third party later determine that the IDA declaration is false, this would be a serious integrity matter.
4. Remand my FOIA request back to the Agency for direct reply to me.
5. Grant me new appellate rights following a subsequent reply by the Agency.
6. Provide your final determination as a single PDF via return email.
7. Post my request, all records released, this appeal and the final determination letter to the publicly accessible FOIAonline website, linked to my account.

With respect,

Robert Hammond  
Whistleblower

Enclosures: as stated

August 25, 2022

**Subject: Expedited FOIA Request DON 22-A.4. DOJ JAG Case Processing Records of OGIS Mediation Navy Still Interested Letters**

I am submitting this request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 et seq., as amended and the Privacy Act. If you deny all or any part of this request, please cite each specific exemption you think justifies your decision not to release the information under **both Acts** and notify me of appeal procedures available under the law.

References cited below apply.

**\*\*\*This Request will be timely for Judicial Review in twenty working days\*\*\***

**RECORDS SOUGHT VIA FOIA.**

**Expedited FOIA Request DON 22-A.4. DOJ JAG Case Processing Records of OGIS Mediation Navy Still Interested Letters. See Format. See PDF.**

I am respectfully seeking:

1. All records of any kind **in the possession of DON JAG** from August 2, 2022 10:15 AM to present related to my email “DOJ Compliance Inquiry, OGIS Mediation +RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting)” and contact with the Office of Government Information Services. See Attachment A.
2. Records would include, but not be limited to:
  - a. All emails.
  - b. All records of communication with and responses by NARA’s Office of Government Information Services, including, but not limited to ogis@nara.gov; alina.semo@nara.gov; debra.wall@nara.gov; 'NARA NGC General Counsel FOIA' <foia@nara.gov>; alina.semo@nara.gov; 'Robert Hammond' <dod.foia.pa@gmail.com>; sheela.portonovo@nara.gov; teresa.brady@nara.gov; CHRISTA.Lemelin@nara.gov; daniel.levenson@nara.gov; kimberly.reed@nara.gov; carrie.mcguire@nara.gov; dwaine.bacon@nara.gov
  - c. All records of communication with and responses by Navy’s FOIA Public Liaison, Christopher Julka, Christopher.a.julka@navy.mil:
  - d. All internal Department of Navy Office of the Judge Advocate General (DON JAG) correspondence
  - e. Any communications by email, fax or in any other format between **DOJ JAG** any other entity, including DONFOIA-PA. Principals at DONFOIA-PA, whose information is in the public Domain, includes:

Richard R. Strong

CNO/SECNAV  
Deputy Director, FOIA/Privacy  
Department of the Navy  
P-202-685-6546  
F-202-685-6580  
[Richard.r.strong@navy.mil](mailto:Richard.r.strong@navy.mil)

Robin. Patterson  
Head, SECNAV/CNO FOIA/PA Program Office (DNS-36).  
CNO Office of The Director, Navy Staff  
Organization and Management Division  
FOIA/PA Service Center 202 685-0412 [DONFOIA-PA@NAVY.MIL](mailto:DONFOIA-PA@NAVY.MIL)

Joshua Portner  
SECNAV/CNO FOIA Requester Service Center (DNS-36)  
Contractor Support  
(202) 685-6517  
[joshua.portner.ctr@navy.mil](mailto:joshua.portner.ctr@navy.mil)

- f. All records of communication with the Office of DOD's Chief FOIA Officer, Joo Chung and her staff.
3. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

### **REQUESTED FORMAT.**

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be opened by me. Only if this is not possible,

emails should be produced with their embedded hyperlinked attachments by using the “File => Save as Adobe PDF” command within Outlook or by other software that produces the same result.

I am also seeking the “**Description Available to the Public**” field I FOIAonline be set to yes and that all records be released to and viewable in the application by the general Public. The release type must be set to “**Unredacted – Releasable to the General Public: Will be available to the general public,**” or to “**Redacted – Releasable to the General Public: Will be available to the general public.**”

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number and cite records sought.

**FEE WAIVER/ PUBLIC INTEREST/PUBLIC RELEASE.** Notwithstanding my agreement to pay fees below if my fee waiver is denied, I am seeking a fee waiver due to significant public interest in this information. The subject of the requested records concerns "the operations or activities of the government." The disclosure is "likely to contribute" to an understanding of government operations or activities. There is no commercial interest. There is significant public interest.

### **AGREEMENT TO PAY FEES.**

I agree to pay fees for searching or copying the records up to \$25. If the fees exceed this amount please advise me of the cost before proceeding. I do not believe that there should be any charge for providing these records, as there is public interest in government operations. I am a private individual not seeking documents for commercial use, such that the following applies: “No fees may be charged by any DoD Component if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee. With the exception of requesters seeking documents for a commercial use, Components shall provide the first two hours of search time, and the first one hundred pages of duplication without charge.” I would note that because I am requesting an electronic file, there should not be a per page copy fee. The OMB Guidelines direct that searches for responsive records should be done in the "most efficient and least expensive manner." See OMB Fee Guidelines, 52 Fed. Reg. at 10,017. As an “all others” requester, I may only be assessed search and duplication fees and not fees for review. See 32 CFR 286.12 - Schedule of fees. Also, please note that, should payment become necessary, the Coinage Act of 1965, specifically Section 31 U.S.C. 5103, entitled "Legal tender," states: " United States coins and currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) are legal tender for all debts, public charges, taxes, and dues. Foreign gold or silver coins are not legal tender for debts.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 980 ; Pub. L. 97–452, §1(19), Jan. 12, 1983, 96 Stat. 2477 .)

### **EXPEDITED PROCESSING.**

1. Failure to obtain the records on an expedited basis could reasonably be expected to result in an imminent loss of substantial due process rights related to the FOIA requests cited in the “still interested” inquiries.
2. The subject is of widespread and exceptional media interest and the information sought involves possible questions about the government's integrity that affect public confidence.
  - a. As DOD knows, while I am an “other requester” I am an individual engaged in disseminating information in order to inform the public concerning actual or alleged federal government activity. Information is urgently needed for that purpose
  - b. I prepare extended Public Comment for open FOIA meetings and regularly communicate with other open government entities and interested parties.
  - c. Errant FOIA reporting and other matters of public interest are at issue.

### **DOD POLICY – PUBLIC TRUST.**

Reference (c) states, “DoD personnel are expected to comply with the FOIA, this Regulation, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust.”

### **ESTIMATED COMPLETION DATES**

Provide me the initial estimated completion date (ESD) for this matter along with contemporaneous adjusted ESDs as they change. See **Office of Government Information Services Advisory Opinion No. 2020-01: Agencies Must Provide Estimated Dates of Completion Upon Request** <https://www.archives.gov/ogis/advisory-opinions/2020-01-agencies-must-provide-edcs>

**STILL-INTERESTED PREEMPTIVE REPLY.** This is a preemptive reply to the Justice Department guidelines the procedure known as a “still interested” inquiry, through which a FOIA officer can confirm that the requester has not lost interest in obtaining the documents.

My interest in all FOIA requests and appeals submitted to your office is enduring, meaning that my interest in seeking replies to all past and future FOIA request remains in effect until each request has been answered fully and the time for judicial review has



passed. Please do not initiate any "still interested" inquiries. This serves as my notice of enduring interest and automatic reply to any future questions of interest by your office. There are no reasonable grounds to ever conclude in the future that I am not interested in this request.

#### Implementation Checklist for DOJ OIP Guidance on "Still-Interested" Inquiries

1. Ensure there are reasonable grounds to make a "still-interested" inquiry in first instance.
2. Absent good cause, do not make multiple "still-interested" inquiries.
3. Use requester's preferred method of communication and in the absence of a preference, communicate by telephone or email as the default.
4. Memorialize any decision by a requester to withdraw a request that is conveyed by telephone by sending the requester a brief email or letter noting the withdrawal.
5. Provide requesters no less than thirty (30) working days to respond to the "still-interested" inquiry and ensure that there is a simple way to do so.
6. Advise the requester that if they elect not to respond to the inquiry, the request will be administratively closed at the conclusion of the designated time period (which must be at least 30 working days).
7. Prior to administratively closing a request based upon the lack of a response by the requester, make good faith efforts to reach out to the requester using multiple methods of communication.
8. In the event a requester responds to the "still-interested" inquiry within a reasonable time after the deadline has passed, reopen the request and place it back into the processing queue where it would have been.

#### **PRESERVE RECORDS AND SEARCHES FOR JUDICIAL REVIEW.**

Please search for, locate and preserve all responsive or potentially responsive records and records of your searches in your FOIA case file until the statutory date for judicial review has passed (should that be necessary) or in accordance with a NARA approved records schedule, if longer. NARA GRS 4.2 requires that FOIA and Privacy Act case files be retained for 6 years after final agency action or 3 years after final adjudication by the courts, whichever is later. Records of responsive searches would include but not be limited to: searches conducted for each specific record sought and all other records known to the Agency, including dates, manner of searching, responsible agent or employee conducting each search and the results thereof. Such persons determining the locations of responsive records must be inclusive of persons who would know such locations and their identities and manner of determining search locations must be preserved.

In any subsequent proceedings, I may seek sworn declarations and a court order appointing a special counsel, as appropriate. Similarly, I may pursue additional venues.

Any deletion of potentially responsive records by any party having knowledge of this Request may be a violation of law. In as much as applicable staff and leadership have knowledge of my subject request, the Agency must search for, locate and preserve all responsive or potentially responsive records and records of searches in their FOIA case file, and leadership must ensure that this is done. Failing to do so and allowing records to be deleted IAW any other records management schedule may be a violation of law.

**ELECTRONIC RECORDS PRESERVATION.**

The Agency must preserve all electronically stored information, copies and backup, as defined by Rule 34 of the Federal Rules of Civil Procedure, along with any paper files which the Agency maintains, relevant to this action I am seeking electronic data in the Agency’s custody and control that is relevant to this action, including without limitation emails, along with metadata, and other information contained on Agency computer systems and any electronic storage systems. I consider this electronic data and paper files to be valuable and irreplaceable sources of discoverable information in this matter. No procedures should have been implemented to alter any active, deleted or fragmented data. Moreover, no electronic data should have been disposed of or destroyed. (ETL Institute for Advancement of America’s Legal System).

Further, to properly fulfill your preservation obligation, stop all scheduled data destruction, electronic shredding, rotation of backup tapes, and the sale, gift or destruction of hardware. Notify all individuals and of the need and duty to take the necessary affirmatives steps to comply with the duty to preserve evidence. (2008 Thomson Delmar Learning).

The Agency’s Director of Information Operations or similar organization must initiate procedures to preserve electronic records.

**APPLICABLE RETENTION SCHEDULE, NARA GRS 4.2 Item 20**

020	<p><b>Access and disclosure request files.</b> Case files created in response to requests for information under the Freedom of Information Act (FOIA), Mandatory Declassification Review (MDR) process, Privacy Act (PA), Classification Challenge, and similar access programs, and completed by: • granting the request in full • granting the request in part • denying the request for any reason including: o inability to fulfill request because records do not exist o inability to fulfill request because request inadequately describes records o inability to fulfill request because search or reproduction fees are not paid</p>	<p><b>Temporary.</b>          Destroy 6 years after final agency action or 3 years after final adjudication by the courts, whichever is later, but longer retention is authorized if required for business use.</p>	<p>DAA-GRS-2016-0002-0001</p>
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## **ALTERATION/DESTRUCTION OF RECORDS**

### **18 U.S. CODE § 1519 - DESTRUCTION, ALTERATION, OR FALSIFICATION OF RECORDS.**

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both. 18 U.S. Code § 1519 - Destruction, alteration, or falsification of records. (Added Pub. L. 107–204, title VIII, §802(a), July 30, 2002, 116 Stat. 800.).

**18 U.S.C. 641 and 2071.** The penalties for the unlawful or accidental removal, defacing, alteration, or destruction of Federal records or the attempt to do so, include a fine, imprisonment, or both (18 U.S.C. 641 and 2071).

### **36 CFR § 1230 UNLAWFUL OR ACCIDENTAL REMOVAL, DEFACING, ALTERATION, OR DESTRUCTION OF RECORDS**

#### **§1230.3**

*Unlawful or accidental destruction (also called unauthorized destruction)* means disposal of an unscheduled or permanent record; disposal prior to the end of the NARA-approved retention period of a temporary record (other than court-ordered disposal under §1226.14(d) of this subchapter); and disposal of a record subject to a **FOIA request**, litigation hold, or any other hold requirement to retain the records.

### **32 CFR PART 286—DOD FREEDOM OF INFORMATION ACT (FOIA) PROGRAM**

#### **32 CFR §286.6 Preservation of records.**

Each DoD Component shall preserve all correspondence pertaining to the requests that it receives under this part, as well as copies of all requested records, until disposition or destruction is authorized pursuant to title 44 of the United States Code or the General Records Schedule 4.2 of the National Archives and Records Administration (NARA). Records shall not be disposed of or destroyed while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

#### **36 CFR § 1230.3**

*Unlawful or accidental destruction (also called unauthorized destruction)* means disposal of an unscheduled or permanent record; disposal prior to the end of the [NARA](#)-approved

retention period of a temporary record (other than court-ordered disposal under § 1226.14(d) of this subchapter); and disposal of a record subject to a **FOIA request**, litigation hold, or any other hold requirement to retain the records.

## **RECORDS**

### **(a) FEDERAL AGENCY NOTIFICATION.—**

The head of each Federal agency shall notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, corruption, deletion, erasure, or other destruction of records in the custody of the agency, and with the assistance of the Archivist shall initiate action through the Attorney General for the recovery of records the head of the Federal agency knows or has reason to believe have been unlawfully removed from that agency, or from another Federal agency whose records have been transferred to the legal custody of that Federal agency.

### **(b) ARCHIVIST NOTIFICATION.—**

In any case in which the head of a Federal agency does not initiate an action for such recovery or other redress within a reasonable period of time after being notified of any such unlawful action described in subsection (a), or is participating in, or believed to be participating in any such unlawful action, the Archivist shall request the Attorney General to initiate such an action, and shall notify the Congress when such a request has been made.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1298; Pub. L. 98–497, title I, § 107(b)(21), title II, § 203(b), Oct. 19, 1984, 98 Stat. 2290, 2294; Pub. L. 113–187, § 4, Nov. 26, 2014, 128 Stat. 2009)

## **IMPROPERLY WITHHOLDING RECORDS**

Pursuant to FOIA:

“Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Counsel, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Counsel recommends.” 5 U.S.C. § 552(a)(4)(F)(i).

## PERJURY

Whoever-

(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under [section 1746 of title 28, United States Code](#), willfully subscribes as true any material matter which he does not believe to be true;

is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

18 U.S. C. § 1621 - Perjury generally (June 25, 1948, ch. 645, 62 Stat. 773; Pub. L. 88-619, §1, Oct. 3, 1964, 78 Stat. 995 ; Pub. L. 94-550, §2, Oct. 18, 1976, 90 Stat. 2534 ; Pub. L. 103-322, title XXXIII, §330016(1)(I), Sept. 13, 1994, 108 Stat. 2147.

## SUBORDINATION OF PERJURY

The term *subornation of perjury* further describes the circumstance wherein an [attorney at law](#) causes a client to lie under oath or allows another party to lie under oath

Title [18 U.S.C. § 1622](#) provides:

Whoever procures another to commit any perjury is guilty of subornation of perjury, and shall be fined under this title or imprisoned not more than five years, or both.

## FALSE OFFICIAL STATEMENTS.

18 U.S.C. § 1001. Statements or entries generally:

- a. Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully --
  1. falsifies, **conceals**, or covers up by any trick, scheme, or device a **material fact**;
  2. makes any materially false, fictitious, or fraudulent statement or representation;or

3. makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title or imprisoned not more than 5 years, or both.

10 U.S. Code § 907. Art. 107. False official statements; false swearing:

(a) FALSE OFFICIAL STATEMENTS. Any person subject to this chapter who, with intent to deceive—

- (1) signs any false [record](#), return, regulation, order, or other official document, knowing it to be false; or
- (2) makes any other false official statement knowing it to be false;

shall be punished as a [court](#)-martial may direct.”

## **LEGAL FRAMEWORK OF FOIA**

1. The definition of “records” includes:

“[A]ll books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made *or received* by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them.” 44 U.S.C. § 3301 (emphasis supplied).

2. FOIA requires that “each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person” 5 U.S.C. § 552(a)(3)(A).

3. FOIA requires that “each agency shall establish a system to assign an individualized tracking number for each request received that will take longer than ten days to process and provide to each person making a request the tracking number assigned to the request” 5 U.S.C. § 522(a)(7)(A).

4. FOIA requires that each agency shall “establish a telephone line or Internet service that provides information about the status of a request to the person making the request using the assigned tracking number, including the date on which the agency originally received the request; and an estimated date on which the agency will complete action on the request. 5 U.S.C. § 522(a)(7)(B).

5. FOIA also requires federal agencies to make a final determination on FOIA administrative appeals that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal, unless the agency expressly provides notice to the requester of “unusual circumstances” meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(ii).

6. FOIA expressly provides that a person shall be deemed to have constructively exhausted their administrative remedies if the agency fails to comply

with the applicable time limitations provided by 5 U.S.C. § 552(a)(6)(A)(I) - (ii). *See also* 5 U.S.C. § 552(a)(6)(C).

7. FOIA provides that any person who has not been provided the records requested pursuant to FOIA, after exhausting their administrative remedies, may seek legal redress from the Federal District Court to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.

8. Regarding the names of the FOIA requesters, the courts have held that under the FOIA requesters do not have an expectation of privacy. *Stauss v. IRS*, 516 F. Supp. 1218, 1223 (D.D.C. 1981),

9. Under FOIA, the federal agency has the burden of sustaining its actions. 5 U.S.C. § 552(a)(4)(B).

10. Pursuant to FOIA, a Court may assess attorney fees and litigation costs against the United States if the Plaintiff prevails in an action thereunder. 5 U.S.C. § 552(a)(4)(E).

11. Department of Justice (DOJ) has issued a handbook addressing FOIA Annual Reports. *See* DOJ, *Handbook for Agency Annual Freedom of Information Act Reports*, “Disposition of FOIA Requests,” (available at [http://www.justice.gov/sites/default/files/oip/pages/attachments/2014/11/04/department\\_of\\_justice\\_handbook\\_for\\_agency\\_annual\\_freedom\\_of\\_information\\_act\\_reports.pdf](http://www.justice.gov/sites/default/files/oip/pages/attachments/2014/11/04/department_of_justice_handbook_for_agency_annual_freedom_of_information_act_reports.pdf)) (“DOJ Handbook”).

12. Among other things, the DOJ Handbook states, “All requests (perfected and non-perfected), appeals, and consultations that were pending at any time during the relevant fiscal year [October 1st through September 30th] will be captured.”

13. The DOJ Handbook also states:

“[E]ach agency is ultimately responsible for the accuracy and completeness of its Annual FOIA Report. It is therefore essential for agencies to take steps that will ensure that they are adequately tracking all of the information necessary to complete the Annual FOIA Report sections detailed below. Agencies that utilize a tracking or case management system for this purpose are responsible for ensuring that the system they are using can produce an accurate Annual FOIA Report that is in compliance with the law and Department of Justice guidance.” DOJ Handbook, at 3.

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request. If you deem that any portion of my request is unclear, answer the remaining portions and I will perfect a request for additional material as needed.

Thank you very much in advance.

With my respect,

/s/

Robert Hammond  
Requester  
Whistleblower

References:

- (a) The Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, as amended,
- (b) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, “Your Right to Federal Records”
- (c) The Privacy Act (“PA”) of 1974, 5 U.S.C. § 552a, *et seq.*, as amended
- (d) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
- (e) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
- (f) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation
- (g) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act
- (h) Department of Justice Handbook for Agency Annual Freedom of Information Act Reports
- (i) (b) Administrative Instruction 106, “Alternative Dispute Resolution (ADR) Program,” January 30, 2014
- (j) DoD Directive 5145.01, “General Counsel of the Department of Defense (GC DoD),” December 2, 2013, as amended
- (k) DoD Directive 5145.04, “Defense Legal Services Agency (DLSA),” April 16, 2012
- (l) (f) DoD Directive 5400.11, “DoD Privacy Program,” October 29, 2014
- (m) DoD Manual 8910.01, Volume 1, “DoD Information Collections Manual: Procedures for DoD Internal Information Collections,” June 30, 2014
- (n) Executive Order 12988, “Civil Justice Reform,” February 5, 1996
- (o) Public Law 101-552, “Administrative Dispute Resolution Act,” November 15, 1990
- (p) Public Law 104–320, “Administrative Dispute Resolution Act of 1996,” October 19, 1996
- (q) Presidential Memorandum for Heads of Executive Departments and Agencies, “Designation of Interagency Committees to Facilitate and Encourage Agency Use of Alternate Means of Dispute Resolution and Negotiated Rulemaking,” May 1, 1998
- (r) United States Code, Title 5
- (s) DoD Instruction 5145.05, “Alternative Dispute Resolution (ADR) and Conflict Management”
- (t) Alternate Dispute Resolution Handbook ([opm.gov/policy-data-oversight/employee-relations/employee-rights-appeals/alternative-dispute-resolution/handbook.pdf](http://opm.gov/policy-data-oversight/employee-relations/employee-rights-appeals/alternative-dispute-resolution/handbook.pdf))



(u) President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines ([justice.gov/sites/default/files/oip/legacy/2014/07/23/foia-memorandum.pdf](http://justice.gov/sites/default/files/oip/legacy/2014/07/23/foia-memorandum.pdf))

**From:** [foiacompliance@gmail.com](mailto:foiacompliance@gmail.com)  
**To:** [perseverance2013@aol.com](mailto:perseverance2013@aol.com); [donfoia-pa@navy.mil](mailto:donfoia-pa@navy.mil); [robin.patterson@navy.mil](mailto:robin.patterson@navy.mil); [christopher.a.julka@navy.mil](mailto:christopher.a.julka@navy.mil); [wendy.winston@navy.mil](mailto:wendy.winston@navy.mil); [nathaniel.a.boslak.mil@us.navy.mil](mailto:nathaniel.a.boslak.mil@us.navy.mil); [DHA.FOIA@mail.mil](mailto:DHA.FOIA@mail.mil); [joo.y.chung2.civ@mail.mil](mailto:joo.y.chung2.civ@mail.mil); [OIP.ComplianceInquiry@usdoj.gov](mailto:OIP.ComplianceInquiry@usdoj.gov); [bobak.Talebian@usdoj.gov](mailto:bobak.Talebian@usdoj.gov); [DHA.FOIA@mail.mil](mailto:DHA.FOIA@mail.mil); [dha.ncr.pcl.mbx.foia-requests@mail.mil](mailto:dha.ncr.pcl.mbx.foia-requests@mail.mil); [dha.bethesa.ncr.medical.mbx.wrm-hipaa-mail@mail.mil](mailto:dha.bethesa.ncr.medical.mbx.wrm-hipaa-mail@mail.mil); [ambler.jackson@aecom.com](mailto:ambler.jackson@aecom.com); [judy.j.bizzell.civ@mail.mil](mailto:judy.j.bizzell.civ@mail.mil); [joseph.e.davidge.civ@mail.mil](mailto:joseph.e.davidge.civ@mail.mil); [donfoia-pa@navy.mil](mailto:donfoia-pa@navy.mil); [grant.lattin@navy.mil](mailto:grant.lattin@navy.mil); [james.mckeeon@navy.mil](mailto:james.mckeeon@navy.mil); "Marye, Charles C CIV WHS ESD (USA)"; [ambler.jackson@aecom.com](mailto:ambler.jackson@aecom.com); [brenda.squires@navy.mil](mailto:brenda.squires@navy.mil); [della.garcia@med.navy.mil](mailto:della.garcia@med.navy.mil); [susan.reyes@navy.mil](mailto:susan.reyes@navy.mil); [heather.partridge@med.navy.mil](mailto:heather.partridge@med.navy.mil); [DONFOIA-PA@navy.mil](mailto:DONFOIA-PA@navy.mil); [Christopher.a.julka@navy.mil](mailto:Christopher.a.julka@navy.mil); [joshua.portner\\_ctr@navy.mil](mailto:joshua.portner_ctr@navy.mil); [mary.p.shaw@navy.mil](mailto:mary.p.shaw@navy.mil); [montant.johnson\\_ctr@navy.mil](mailto:montant.johnson_ctr@navy.mil); [Raymond.Hartwick\\_ctr@navy.mil](mailto:Raymond.Hartwick_ctr@navy.mil); [richard.r.strong@navy.mil](mailto:richard.r.strong@navy.mil); [robin.patterson@navy.mil](mailto:robin.patterson@navy.mil); [thomas.b.Modly.civ@mail.mil](mailto:thomas.b.Modly.civ@mail.mil); [raquel.c.bono.mil@mail.mil](mailto:raquel.c.bono.mil@mail.mil); [wendy.winston@navy.mil](mailto:wendy.winston@navy.mil); [grant.lattin@navy.mil](mailto:grant.lattin@navy.mil); [emilee.k.baldini@navy.mil](mailto:emilee.k.baldini@navy.mil); [kirk.foster@navy.mil](mailto:kirk.foster@navy.mil); [adam.inch@navy.mil](mailto:adam.inch@navy.mil); [adam.yost@navy.mil](mailto:adam.yost@navy.mil); [soto.alaric@mail.mil](mailto:soto.alaric@mail.mil); [paul.richelmi@navy.mil](mailto:paul.richelmi@navy.mil); [eva.lose@navy.mil](mailto:eva.lose@navy.mil); [james.mckeeon@navy.mil](mailto:james.mckeeon@navy.mil); [Meredith.werner@navy.mil](mailto:Meredith.werner@navy.mil); [matthew.roush@navy.mil](mailto:matthew.roush@navy.mil); [Felecia.M.Ford@navy.mil](mailto:Felecia.M.Ford@navy.mil); [griffin.farris@navy.mil](mailto:griffin.farris@navy.mil); [andrew.m.barr.mil@mail.mil](mailto:andrew.m.barr.mil@mail.mil); [dod.foia.pa@gmail.com](mailto:dod.foia.pa@gmail.com); [usarmy.jbsa.medcom.list.medcom.foia-users@mail.mil](mailto:usarmy.jbsa.medcom.list.medcom.foia-users@mail.mil); [usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil](mailto:usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil); [osd.mc-alex.odcmo.mbx.foia-liaison@mail.mil](mailto:osd.mc-alex.odcmo.mbx.foia-liaison@mail.mil)  
**Cc:** [John.P.Peterson.civ@mail.mil](mailto:John.P.Peterson.civ@mail.mil); [Paul.D.Kercher.civ@mail.mil](mailto:Paul.D.Kercher.civ@mail.mil); [Emily.D.Hall5.civ@mail.mil](mailto:Emily.D.Hall5.civ@mail.mil); [Elizabeth.N.Arzola.civ@mail.mil](mailto:Elizabeth.N.Arzola.civ@mail.mil); [usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil](mailto:usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil); [usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil](mailto:usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil); [usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil](mailto:usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil); [jefrey.w.timby.mil@mail.mil](mailto:jefrey.w.timby.mil@mail.mil); [timothy.s.sloan.mil@mail.mil](mailto:timothy.s.sloan.mil@mail.mil); [Antonio.R.Blount.civ@mail.mil](mailto:Antonio.R.Blount.civ@mail.mil); [Patti.e.myers.civ@mail.mil](mailto:Patti.e.myers.civ@mail.mil); [Abuoh.e.neuville.mil@mail.mil](mailto:Abuoh.e.neuville.mil@mail.mil); [usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil](mailto:usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil); "FOIA"; [melvinv@gao.gov](mailto:melvinv@gao.gov); [mctiguej@gao.gov](mailto:mctiguej@gao.gov); [alina.semo@nara.gov](mailto:alina.semo@nara.gov); [ogis@nara.gov](mailto:ogis@nara.gov); [OIP.ComplianceInquiry@usdoj.gov](mailto:OIP.ComplianceInquiry@usdoj.gov); [Vanita.Gupta19@usdoj.gov](mailto:Vanita.Gupta19@usdoj.gov); [garym.stern@nara.gov](mailto:garym.stern@nara.gov); "NARA NGC General Counsel FOIA"; [foiacompliance@gmail.com](mailto:foiacompliance@gmail.com); [hammondrobert1976@gmail.com](mailto:hammondrobert1976@gmail.com); [foiacompliance@gmail.com](mailto:foiacompliance@gmail.com)  
**Subject:** FW: DOJ Compliance Inquiry, OGIS Mediation +RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting  
**Date:** Wednesday, August 24, 2022 1:32:10 PM  
**Attachments:** [Still interested ltr \(302 KB\).msg](#)  
[DOD MASSIVE FALSE REPORTING PART II + Still Interested Abuse.pdf](#)  
[Correspondence only by Email. RE Preemptive Reply to DODNavy FW Still... \(1.10 MB\).msg](#)  
[Hammond FOIAs - Still Interested is enduring for my requests \(21.2 KB\).msg](#)  
[FW FOIA - Still Interested is enduring for my requests \(21.9 KB\).msg](#)  
[22-3417 Hammond Response \(002\).pdf](#)

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## **Summary.**

Navy waited four years to initiate still interested letters for appeals and requests, despite my numerous pre-emptive correspondences that my interests are enduring and the fact that there is no procedure for still interested inquiries to appeals. Navy is simply trying to close cases without having to report them in their annual FOIA reports on a massive scale.

Navy's preemptive letters do not comport with DOJ OIP guidelines.

Navy is engaged in massive false FOIA reporting with respect to specific case numbers that I identified and massively many more. This is a DOD problem.

Office of Government Information Services (OGIS) and DOJ Office of Information Policy (DOJ OIP) have not acted in accordance with law in addressing my mediation requests and compliance inquiries.

Audits are needed, not only with respect to the issues cited herein, but also to the adequacy of funding impacting mission performance of OGIS and DOJ OIP.

## **OGIS Actions.**

Ms. Wall, Ms. Semo,

By law OGIS cannot refuse mediation of DOD's massive abuse of still interested letters with my countless preemptive still interested correspondence dating back many

years. OGIS must act on my request below that “I want mediation, not a reply from the agency FPL.”

OGIS must also address Navy’s massive incontrovertible False FOIA reporting. The FOIA statute requires that “The Office of Government Information Services shall— ... (B) review compliance with this section by administrative agencies.

Your attached correspondence 22-3417 Hammond Response letter improperly closed this case without addressing the issues: (1) Navy’s still interested inquires relating to appeals are improper as there is no procedure for that, (2) Navy’s still interested inquiries are improper in that I had preemptively and repeatedly stated my enduring interest prior to the inquiries, (3) Navy is involved in massive false FOIA reporting which OGIS must address.

This is particularly disturbing in that over a month ago I sent OGIS for posting to the Annual Open FOIA meeting my public comment, “DOD MASSIVE FALSE REPORTING PART II + Still Interested Abuse. Updated July 27, 2022” outlining these same issues. OGIS/DOJ OIP have not posted that presentation and Navy continued its massive abuse of still interested letters and False FOIA reporting. *See* <https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20> . See also “Failure - FOIA Compliance Oversight & Funding. Part 2. No Joking Matter.”

#### **ACTION.**

1. Immediately open individual mediation cases, per my request below, directly with DON JAG, not the Agency FPL. There is no such thing as “USN FOIA office” cited in your letter; OGIS is attempting to obfuscate that you did not engage with DON JAG, but rather with the Agency FPL, which is a distinct, separate, non-exclusive right from OGIS. OGIS cannot refuse mediation. If Navy refuses to engage in mediation, OGIS must so state in any subsequent closure letter and in annual Ombuds reports.
2. Immediately address Navy’s incontrovertible False FOIA reporting and include your findings/action in a subsequent closure letter.
3. Issue proper closure letters to each instance, with copies to the head of DON JAG, and the DON CIO, who is the Department of the Navy's Senior Military Component Official for the Freedom of Information Act (FOIA).
4. I am today filing an expedited FOIA request seeking OGIS case processing records related to this mater – promptly reply.

#### **DOJ OIP Actions.**

Ms. Gupta, Mr. Talebian:

1. Per below, please advise me of the individualized compliance inquiry case numbers to my complaints below and the status of those inquiries.
2. Address each instance of FALSE FOIA reporting.
3. Address impropriety of still interested inquiries applied to appeals.
4. Address Navy misconduct in issuing the still interested letters, which do not comport with DOJ OIP guidelines as to when they can be issued.

5. Address OGIS misconduct cited above, which violates both law and DOJ OIP Policy.
6. Issue proper closure letters to each instance, with copies to the head of DON JAG, and the DON CIO, who is the Department of the Navy's Senior Military Component Official for the Freedom of Information Act (FOIA).

**GAO,**

Please include these matters in any FOIA audits, including those relating to agency backlogs, Navy's malign tactic of reducing backlogs by closing them pursuant to still interested inquiries. Please examine the extent of the problem. For the agency to wait four years to inquire about open FOIA requests and appeals, that have apparently not been reported as open, is not only a procedural issue, but an ethical one as well.

With my deep respect,

Robert Hammond

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**From:** perseverance2013@aol.com <perseverance2013@aol.com>

**Sent:** Tuesday, August 2, 2022 10:15 AM

**To:** donfoia-pa@navy.mil; robin.patterson@navy.mil; christopher.a.julka@navy.mil; wendy.winston@navy.mil; nathaniel.a.bosiak.mil@us.navy.mil; DHA.FOIA@mail.mil; joo.y.chung2.civ@mail.mil; OIP.ComplianceInquiry@usdoj.gov; bobak.Talebian@usdoj.gov; DHA.FOIA@mail.mil; dha.ncr.pcl.mbx.foia-requests@mail.mil; dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil; ambler.jackson@aecom.com; judy.j.bizzell.civ@mail.mil; joseph.e.davidge.civ@mail.mil; donfoia-pa@navy.mil; grant.lattin@navy.mil; james.mckeeon@navy.mil; 'Marye, Charles C CIV WHS ESD (USA)' <charles.c.marye.civ@mail.mil>; ambler.jackson@aecom.com; brenda.squires@navy.mil; della.garcia@med.navy.mil; susan.reyes@navy.mil; heather.partridge@med.navy.mil; DONFOIA-PA@navy.mil; Christopher.a.julka@navy.mil; joshua.portner.ctr@navy.mil; mary.p.shaw@navy.mil; montant.johnson.ctr@navy.mil; Raymond.Hartwick.ctr@navy.mil; richard.r.strong@navy.mil; robin.patterson@navy.mil; thomas.b.Modly.civ@mail.mil; raquel.c.bono.mil@mail.mil; wendy.winston@navy.mil; grant.lattin@navy.mil; emilee.k.baldini@navy.mil; kirk.foster@navy.mil; adam.inch@navy.mil; adam.yost@navy.mil; soto.alaric@mail.mil; paul.richelmi@navy.mil; eva.lose@navy.mil; james.mckeeon@navy.mil; Meredith.werner@navy.mil; matthew.roush@navy.mil; Felecia.M.Ford@navy.mil; griffin.farris@navy.mil; andrew.m.barr.mil@mail.mil; dod.foia.pa@gmail.com; usarmy.jbsa.medcom.list.medcom-foia-users@mail.mil; usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil; osd.mc-alex.odcmo.mbx.foia-liaison@mail.mil

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Vanita.Gupta19@usdoj.gov

**Subject:** DOJ Compliance Inquiry, OGIS Mediation +RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting

Ms. Chung (DOD Chief FOIA Officer), et al.

Today, **August 2, 2022**, I received the attached email “still Interested It” from Department of Navy’s Office of Judge Advocate General (DON JAG) with an improper “still interested letter” letter dated **June 16, 2022** regarding scores of FOIA requests and appeals dating back to 2018.

1. There is no provision to question “still interested” with regard to an administrative appeal.
2. I answered this very same letter by email below.
3. I have provided countless preemptive replies to still interested inquiries.
4. Navy is engaged in massive false FOIA reporting and is attempting to close old cases without having to account for the processing time.
5. Navy’s continued still interested inquiries do not comport with DOJ guidelines and are therefore each a violation of the Administrative Procedures Act. See [OIP Releases New Guidance for Agency Still-Interested Inquiries | OIP | Department of Justice](https://www.justice.gov/oip/blog/oip-releases-new-guidance-agency-still-interested-inquiries)  
<https://www.justice.gov/oip/blog/oip-releases-new-guidance-agency-still-interested-inquiries>

DOJ/DOJ OIP,

Please open individual compliance inquiries regarding still interested abuse and false FOIA reporting for the following FOIA requests and appeals cited in the attached June 16, 2022 letter:

FREEDOM OF INFORMATION ACT (FOIA) REQUESTS DON-NAVY-2019-000004, DON-NAVY-2018-011918, DON-NAVY-2018-002619, DON-NAVY-2018-002156, DON-NAVY-2018-002630, DON-NAVY-2018-002663, DON-NAVY-2018-001684, DON-NAVY-2018-002615, DON-NAVY-2019-002108, DON-NAVY-2019-002293, DON-NAVY-2019-002310, DON-NAVY-2019-002335, DON-NAVY-2018-011318, DON-NAVY-2019-002401, DON-NAVY-2018-011904, DON-NAVY-2021-000407; FOIA APPEALS DON-NAVY-2019-000581, DON-NAVY-2019-006137, DON-NAVY-2019-001380, DON-NAVY-2019-001389, DON-NAVY-2019-001391, DON-NAVY-2019-001392, DON-NAVY-2019-001515, DON-NAVY-2019-001518, DON-NAVY-2019-002112, DON-NAVY-2019-002294, DON-NAVY-2019-002311, DON-NAVY-2019-002336, DON-NAVY-2019-002341, DON-NAVY-2019-002402, DON-NAVY-2019-002977, DON-NAVY-2022-001294

Reissue guidance regarding still interested in queries.

Ms. Gupta, please allocate sufficient funding for DOJ OIP to accomplish its FOIA compliance

mission. I plan to send OIP some 2,000 compliance inquiries near term.

OGIS,

Please open individual mediation cases for the above. I want mediation, not a reply from the agency FPL. This abuse continues and we must get to the bottom of it. Reissue guidance regarding still interested inquiries.

GAO,

Please include in any FOIA audits, including those relating to agency backlogs, Navy's malign tactic of reducing backlogs by closing them pursuant to still interested inquiries. Please examine the extent of the problem. For the agency to wait four years to inquire about open FOIA requests and appeals, that have apparently not been reported as open, is not only a procedural issue, but an ethical one as well.

While I want to work with DOD directly to resolve open matters, I cannot continue new abuse. This must stop.

With my deep respect,

Robert Hammond

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**From:** [perseverance2013@aol.com](mailto:perseverance2013@aol.com) [perseverance2013@aol.com](mailto:perseverance2013@aol.com)

**Sent:** Wednesday, July 27, 2022 4:42 PM

**To:** 'donfoia-pa@navy.mil' [donfoia-pa@navy.mil](mailto:donfoia-pa@navy.mil); 'robin.patterson@navy.mil' [robin.patterson@navy.mil](mailto:robin.patterson@navy.mil); 'christopher.a.julka@navy.mil' [christopher.a.julka@navy.mil](mailto:christopher.a.julka@navy.mil); 'wendy.winston@navy.mil' [wendy.winston@navy.mil](mailto:wendy.winston@navy.mil); 'nathaniel.a.bosiak.mil@us.navy.mil' [nathaniel.a.bosiak.mil@us.navy.mil](mailto:nathaniel.a.bosiak.mil@us.navy.mil); 'DHA.FOIA@mail.mil' [DHA.FOIA@mail.mil](mailto:DHA.FOIA@mail.mil); 'joo.y.chung2.civ@mail.mil' [joo.y.chung2.civ@mail.mil](mailto:joo.y.chung2.civ@mail.mil); 'OIP.ComplianceInquiry@usdoj.gov' [OIP.ComplianceInquiry@usdoj.gov](mailto:OIP.ComplianceInquiry@usdoj.gov); 'bobak.Talebian@usdoj.gov' [bobak.Talebian@usdoj.gov](mailto:bobak.Talebian@usdoj.gov); 'DHA.FOIA@mail.mil' [DHA.FOIA@mail.mil](mailto:DHA.FOIA@mail.mil); 'dha.ncr.pcl.mbx.foia-requests@mail.mil' [dha.ncr.pcl.mbx.foia-requests@mail.mil](mailto:dha.ncr.pcl.mbx.foia-requests@mail.mil); 'dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil' [dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil](mailto:dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil); 'ambler.jackson@aecom.com' [ambler.jackson@aecom.com](mailto:ambler.jackson@aecom.com); 'judy.j.bizzell.civ@mail.mil' [judy.j.bizzell.civ@mail.mil](mailto:judy.j.bizzell.civ@mail.mil); 'joseph.e.davidge.civ@mail.mil' [joseph.e.davidge.civ@mail.mil](mailto:joseph.e.davidge.civ@mail.mil); 'donfoia-pa@navy.mil' [donfoia-pa@navy.mil](mailto:donfoia-pa@navy.mil); 'grant.lattin@navy.mil' [grant.lattin@navy.mil](mailto:grant.lattin@navy.mil); 'james.mckeeon@navy.mil' [james.mckeeon@navy.mil](mailto:james.mckeeon@navy.mil); 'Marye, Charles C CIV WHS ESD (USA)' [charles.c.marye.civ@mail.mil](mailto:charles.c.marye.civ@mail.mil); 'ambler.jackson@aecom.com' [ambler.jackson@aecom.com](mailto:ambler.jackson@aecom.com); 'brenda.squires@navy.mil' [brenda.squires@navy.mil](mailto:brenda.squires@navy.mil); 'della.garcia@med.navy.mil' [della.garcia@med.navy.mil](mailto:della.garcia@med.navy.mil); 'susan.reyes@navy.mil' [susan.reyes@navy.mil](mailto:susan.reyes@navy.mil); 'heather.partridge@med.navy.mil' [heather.partridge@med.navy.mil](mailto:heather.partridge@med.navy.mil); 'DONFOIA-PA@navy.mil' [DONFOIA-PA@navy.mil](mailto:DONFOIA-PA@navy.mil); 'Christopher.a.julka@navy.mil' [Christopher.a.julka@navy.mil](mailto:Christopher.a.julka@navy.mil); 'joshua.portner.ctr@navy.mil' [joshua.portner.ctr@navy.mil](mailto:joshua.portner.ctr@navy.mil); 'mary.p.shaw@navy.mil' [mary.p.shaw@navy.mil](mailto:mary.p.shaw@navy.mil); 'montant.johnson.ctr@navy.mil' [montant.johnson.ctr@navy.mil](mailto:montant.johnson.ctr@navy.mil); 'Raymond.Hartwick.ctr@navy.mil' [Raymond.Hartwick.ctr@navy.mil](mailto:Raymond.Hartwick.ctr@navy.mil); 'richard.r.strong@navy.mil' [richard.r.strong@navy.mil](mailto:richard.r.strong@navy.mil);

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'ogis@nara.gov' [ogis@nara.gov](mailto:ogis@nara.gov)

**Subject:** RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting

My still interested responses apply to all FOIA requests and appeals ever submitted.

Do not ask again.

Robert Hammond

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**From:** [perseverance2013@aol.com](mailto:perseverance2013@aol.com) <[perseverance2013@aol.com](mailto:perseverance2013@aol.com)>

**Sent:** Friday, June 17, 2022 12:58 PM

**To:** 'donfoia-pa@navy.mil' <[donfoia-pa@navy.mil](mailto:donfoia-pa@navy.mil)>; 'robin.patterson@navy.mil' <[robin.patterson@navy.mil](mailto:robin.patterson@navy.mil)>; 'christopher.a.julka@navy.mil' <[christopher.a.julka@navy.mil](mailto:christopher.a.julka@navy.mil)>; 'wendy.winston@navy.mil' <[wendy.winston@navy.mil](mailto:wendy.winston@navy.mil)>; 'nathaniel.a.bosiak.mil@us.navy.mil' <[nathaniel.a.bosiak.mil@us.navy.mil](mailto:nathaniel.a.bosiak.mil@us.navy.mil)>; 'DHA.FOIA@mail.mil' <[DHA.FOIA@mail.mil](mailto:DHA.FOIA@mail.mil)>;



'joo.y.chung2.civ@mail.mil' <[joo.y.chung2.civ@mail.mil](mailto:joo.y.chung2.civ@mail.mil)>; 'OIP.ComplianceInquiry@usdoj.gov' <[OIP.ComplianceInquiry@usdoj.gov](mailto:OIP.ComplianceInquiry@usdoj.gov)>; 'bobak.Talebian@usdoj.gov' <[bobak.Talebian@usdoj.gov](mailto:bobak.Talebian@usdoj.gov)>; 'DHA.FOIA@mail.mil' <[DHA.FOIA@mail.mil](mailto:DHA.FOIA@mail.mil)>; 'dha.ncr.pcl.mbx.foia-requests@mail.mil' <[dha.ncr.pcl.mbx.foia-requests@mail.mil](mailto:dha.ncr.pcl.mbx.foia-requests@mail.mil)>; 'dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil' <[dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil](mailto:dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil)>; 'ambler.jackson@aecom.com' <[ambler.jackson@aecom.com](mailto:ambler.jackson@aecom.com)>; 'judy.j.bizzell.civ@mail.mil' <[judy.j.bizzell.civ@mail.mil](mailto:judy.j.bizzell.civ@mail.mil)>; 'joseph.e.davidge.civ@mail.mil' <[joseph.e.davidge.civ@mail.mil](mailto:joseph.e.davidge.civ@mail.mil)>; 'donfoia-pa@navy.mil' <[donfoia-pa@navy.mil](mailto:donfoia-pa@navy.mil)>; 'grant.lattin@navy.mil' <[grant.lattin@navy.mil](mailto:grant.lattin@navy.mil)>; 'james.mckeeon@navy.mil' <[james.mckeeon@navy.mil](mailto:james.mckeeon@navy.mil)>; 'Marye, Charles C CIV WHS ESD (USA)' <[charles.c.marye.civ@mail.mil](mailto:charles.c.marye.civ@mail.mil)>; 'ambler.jackson@aecom.com' <[ambler.jackson@aecom.com](mailto:ambler.jackson@aecom.com)>; 'brenda.squires@navy.mil' <[brenda.squires@navy.mil](mailto:brenda.squires@navy.mil)>; 'della.garcia@med.navy.mil' <[della.garcia@med.navy.mil](mailto:della.garcia@med.navy.mil)>; 'susan.reyes@navy.mil' <[susan.reyes@navy.mil](mailto:susan.reyes@navy.mil)>; 'heather.partridge@med.navy.mil' <[heather.partridge@med.navy.mil](mailto:heather.partridge@med.navy.mil)>; 'DONFOIA-PA@navy.mil' <[DONFOIA-PA@navy.mil](mailto:DONFOIA-PA@navy.mil)>; 'Christopher.a.julka@navy.mil' <[Christopher.a.julka@navy.mil](mailto:Christopher.a.julka@navy.mil)>; 'joshua.portner.ctr@navy.mil' <[joshua.portner.ctr@navy.mil](mailto:joshua.portner.ctr@navy.mil)>; 'mary.p.shaw@navy.mil' <[mary.p.shaw@navy.mil](mailto:mary.p.shaw@navy.mil)>; 'montant.johnson.ctr@navy.mil' <[montant.johnson.ctr@navy.mil](mailto:montant.johnson.ctr@navy.mil)>; 'Raymond.Hartwick.ctr@navy.mil' <[Raymond.Hartwick.ctr@navy.mil](mailto:Raymond.Hartwick.ctr@navy.mil)>; 'richard.r.strong@navy.mil' <[richard.r.strong@navy.mil](mailto:richard.r.strong@navy.mil)>; 'robin.patterson@navy.mil' <[robin.patterson@navy.mil](mailto:robin.patterson@navy.mil)>; 'thomas.b.Modly.civ@mail.mil' <[thomas.b.Modly.civ@mail.mil](mailto:thomas.b.Modly.civ@mail.mil)>; 'raquel.c.bono.mil@mail.mil' <[raquel.c.bono.mil@mail.mil](mailto:raquel.c.bono.mil@mail.mil)>; 'wendy.winston@navy.mil' <[wendy.winston@navy.mil](mailto:wendy.winston@navy.mil)>; 'grant.lattin@navy.mil' <[grant.lattin@navy.mil](mailto:grant.lattin@navy.mil)>; 'emilee.k.baldini@navy.mil' <[emilee.k.baldini@navy.mil](mailto:emilee.k.baldini@navy.mil)>; 'kirk.foster@navy.mil' <[kirk.foster@navy.mil](mailto:kirk.foster@navy.mil)>; 'adam.inch@navy.mil' <[adam.inch@navy.mil](mailto:adam.inch@navy.mil)>; 'adam.yost@navy.mil' <[adam.yost@navy.mil](mailto:adam.yost@navy.mil)>; 'soto.alaric@mail.mil' <[soto.alaric@mail.mil](mailto:soto.alaric@mail.mil)>; 'paul.richelmi@navy.mil' <[paul.richelmi@navy.mil](mailto:paul.richelmi@navy.mil)>; 'eva.lose@navy.mil' <[eva.lose@navy.mil](mailto:eva.lose@navy.mil)>; 'james.mckeeon@navy.mil' <[james.mckeeon@navy.mil](mailto:james.mckeeon@navy.mil)>; 'Meredith.werner@navy.mil' <[Meredith.werner@navy.mil](mailto:Meredith.werner@navy.mil)>; 'matthew.roush@navy.mil' <[matthew.roush@navy.mil](mailto:matthew.roush@navy.mil)>; 'Felecia.M.Ford@navy.mil' <[Felecia.M.Ford@navy.mil](mailto:Felecia.M.Ford@navy.mil)>; 'griffin.farris@navy.mil' <[griffin.farris@navy.mil](mailto:griffin.farris@navy.mil)>; 'andrew.m.barr.mil@mail.mil' <[andrew.m.barr.mil@mail.mil](mailto:andrew.m.barr.mil@mail.mil)>; 'dod.foia.pa@gmail.com' <[dod.foia.pa@gmail.com](mailto:dod.foia.pa@gmail.com)>; 'usarmy.jbsa.medcom.list.medcom-foia-users@mail.mil' <[usarmy.jbsa.medcom.list.medcom-foia-users@mail.mil](mailto:usarmy.jbsa.medcom.list.medcom-foia-users@mail.mil)>; 'usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil' <[usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil](mailto:usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil)>; 'osd.mc-alex.odcmo.mbx.foia-liaison@mail.mil' <[osd.mc-alex.odcmo.mbx.foia-liaison@mail.mil](mailto:osd.mc-alex.odcmo.mbx.foia-liaison@mail.mil)>  
**Cc:** 'John.P.Peterson.civ@mail.mil' <[John.P.Peterson.civ@mail.mil](mailto:John.P.Peterson.civ@mail.mil)>; 'Paul.D.Kercher.civ@mail.mil' <[Paul.D.Kercher.civ@mail.mil](mailto:Paul.D.Kercher.civ@mail.mil)>; 'Emily.D.Hall5.civ@mail.mil' <[Emily.D.Hall5.civ@mail.mil](mailto:Emily.D.Hall5.civ@mail.mil)>; 'Elizabeth.N.Arzola.civ@mail.mil' <[Elizabeth.N.Arzola.civ@mail.mil](mailto:Elizabeth.N.Arzola.civ@mail.mil)>; 'usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil' <[usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil](mailto:usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil)>; 'usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia@mail.mil' <[usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia@mail.mil](mailto:usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia@mail.mil)>; 'usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil' <[usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil](mailto:usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil)>; 'jefrey.w.timby.mil@mail.mil' <[jefrey.w.timby.mil@mail.mil](mailto:jefrey.w.timby.mil@mail.mil)>; 'timothy.s.sloan.mil@mail.mil' <[timothy.s.sloan.mil@mail.mil](mailto:timothy.s.sloan.mil@mail.mil)>; 'Antonio.R.Blount.civ@mail.mil' <[Antonio.R.Blount.civ@mail.mil](mailto:Antonio.R.Blount.civ@mail.mil)>; 'Patti.e.myers.civ@mail.mil' <[Patti.e.myers.civ@mail.mil](mailto:Patti.e.myers.civ@mail.mil)>; 'Abuoh.e.neuville.mil@mail.mil' <[Abuoh.e.neuville.mil@mail.mil](mailto:Abuoh.e.neuville.mil@mail.mil)>; 'usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil' <[usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil](mailto:usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil)>; 'FOIA'



<foia@nara.gov>; 'melvinv@gao.gov' <[melvinv@gao.gov](mailto:melvinv@gao.gov)>; 'mctiguej@gao.gov'  
<[mctiguej@gao.gov](mailto:mctiguej@gao.gov)>; 'alina.semo@nara.gov' <[alina.semo@nara.gov](mailto:alina.semo@nara.gov)>; 'ogis@nara.gov'  
<[ogis@nara.gov](mailto:ogis@nara.gov)>

**Subject:** Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting

**Importance:** High

Joo Chung (DOD Chief FOIA Officer), Mr. Julka (Navy FOIA Public Liaison), DONFOIA-PA, Robin Patterson, Joe Davidge, (DHA FOIA Public Liaison), Bobby Talebian (DOJ), Ms. Semo NARA OGIS), et al:

This responds to Navy's letter Ser 14-245 and five emails citing multiple FOIA requests and appeals regarding still interested inquiries of certain FOIA requests and appeals dating back to 2018.

**DOD MASSIVE FALSE FOIA REPORTING.** As I spot checked a few of the FOIA tracking numbers cited in Navy's letter Ser 14-245, which Navy cites as open and for which is seeking still interested replies, none are listed in DOD's FY 2021 FOIA raw data. <https://open.defense.gov/Transparency/FOIA/DoD-Annual-Reports-to-AG/> . This is a blatant attempt to cover-up false FOIA reporting, in my view. It will not stand. There may also be ethical and performance standards issues.

### **IMPROPER STILL INTERESTED INQUIRY**

First, there is no provision for a still interested inquiry to an appeal.

Nevertheless, I am reiterating, as cited in the 11 attached still interested preemptive replies:

**STILL-INTERESTED PREEMPTIVE REPLY.** This is a preemptive reply to the Justice Department guidelines the procedure known as a "still interested" inquiry, through which a FOIA officer can confirm that the requester has not lost interest in obtaining the documents.

My interest in all FOIA requests and appeals submitted to your office is enduring, meaning that my interest in seeking replies to all past and future FOIA requests and appeals remains in effect until each request has been answered fully and the time for judicial review has passed. Please do not initiate any "still interested" inquiries. This serves as my notice of enduring interest and automatic reply to any future questions of interest by your office. There are no reasonable grounds to ever conclude in the future that I am not interested in this request.

ANY referral or transfer of any of my FOIA requests/appeals must include my still interested preemptive reply.

### **ACTION FOA ALL ADDRESSEES.**

1. **All.** Append this preemptive still interested reply to all requests and appeals received from me, Robert Hammond, [perseverance2013@aol.com](mailto:perseverance2013@aol.com).
2. **DOD Chief FOIA Officer.** review and amend your FOIA raw data dating back to 2013 where there are massive numbers of FOIA requests and appeals still open that are not being reported as such. Initiate administrative reviews.
3. **DOJ** conduct independent audits of all DOD annual FOIA reports to raw data and

electronic FOIA portals (e.g., FOIAonline) against raw data from 2013 forward or get GAO to do it for you. DOD's FOIA reporting is massively false. Please address at the June 29, 2022 FOIA Open Meeting your efforts to date to address massive FALSE FOIA Reporting. Please address the case numbers cited herein.

4. **NARA Office of Government Information Services**, at the upcoming June 29, 2022 FOIA Open Meeting, OGIS will be addressing it's Freedom of Information Act Ombudsman 2022 Report for Fiscal Year 2021. "The Freedom of Information Act (FOIA) mandates that the Office of Government Information Services (OGIS) review agency FOIA policies, procedures and **compliance**, 5 U.S.C. §§ 552 (h)(2)(A) and 552 (h)(2)(B)." I have provided OGIS countless examples of massive False FOAI Reporting, including DOD and NARA. Please discuss at the meeting your efforts to date (if any) to address this.

With my deep respect,

Robert Hammond  
Whistleblower

---

**From:** [no-reply@foiaonline.gov](mailto:no-reply@foiaonline.gov) <[no-reply@foiaonline.gov](mailto:no-reply@foiaonline.gov)>

**Sent:** Friday, June 17, 2022 7:53 AM

**To:** [perseverance2013@aol.com](mailto:perseverance2013@aol.com)

**Subject:** Still interested letter

Still interested letter

DEPARTMENT OF THE NAVY  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON NAVY YARD DC 20374  
IN REPLY REFER TO:

5720

Ser 14/245

June 16, 2022

SENT VIA FOIA ONLINE, DOD SAFE, AND U.S. MAIL

Mr. Robert Hammond

REDACTED

E-mail: [perseverance2013@aol.com](mailto:perseverance2013@aol.com)

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUESTS DON-NAVY-2019-000004, DON-NAVY-2018-011918, DON-NAVY-2018-002619, DON-NAVY-2018-002156, DON-NAVY-2018-002630, DON-NAVY-2018-002663, DON-NAVY-2018-001684, DON-NAVY-2018-002615, DON-NAVY-2019-002108, DON-NAVY-2019-002293, DON-NAVY-2019-002310, DON-NAVY-2019-002335, DON-NAVY-2018-011318, DON-NAVY-2019-002401, DON-NAVY-2018-011904, DON-NAVY-2021-000407; FOIA APPEALS DON-NAVY-2019-000581, DON-NAVY-2019-006137, DON-NAVY-2019-001380, DON-NAVY-2019-001389, DON-NAVY-2019-001391, DON-NAVY-2019-001392, DON-NAVY-2019-

001515, DON-NAVY-2019-001518, DON-NAVY-2019-002112, DON-NAVY-2019-002294, DON-NAVY-2019-002311, DON-NAVY-2019-002336, DON-NAVY-2019-002341, DON-NAVY-2019-002402, DON-NAVY-2019-002977, DON-NAVY-2022-001294

This letter responds to your FOIA appeals submitted between November 1, 2018 and November 4, 2021, which were assigned tracking numbers referenced in the above subject line.

Your underlying requests, referenced in the above subject line, were submitted to the Secretary of the Navy/Chief of Naval Operations FOIA Office (DNS-36), the initial denial authority in fiscal years 2018-2021.

As of today, your appeals are still pending. I write to inquire as to whether you are still interested in your appeals being adjudicated by the Office of the Judge Advocate General, General Litigation Division (Code 14). If you are still interested, please inform Code 14 within 30 business days from the date of this letter by mail or via FOIA Online. If you choose to contact Code 14 by mail, please address your correspondence as follows:

Office of the Judge Advocate General – General Litigation Division

ATTN: FOIA APPEALS  
1322 Patterson Ave., Suite 3000  
Washington Navy Yard, D.C. 20374-5066

If Code 14 does not receive any response from you within 30 business days of the date of this letter, your appeal will be administratively closed with no further action taken.

Sincerely,

N. A. BOSIAK  
FOIA Appeals Branch Chief  
General Litigation Division

**Enclosure A**

001515, DON-NAVY-2019-001518, DON-NAVY-2019-002112, DON-NAVY-2019-002294, DON-NAVY-2019-002311, DON-NAVY-2019-002336, DON-NAVY-2019-002341, DON-NAVY-2019-002402, DON-NAVY-2019-002977, DON-NAVY-2022-001294

This letter responds to your FOIA appeals submitted between November 1, 2018 and November 4, 2021, which were assigned tracking numbers referenced in the above subject line.

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As of today, your appeals are still pending. I write to inquire as to whether you are still interested in your appeals being adjudicated by the Office of the Judge Advocate General, General Litigation Division (Code 14). If you are still interested, please inform Code 14 within 30 business days from the date of this letter by mail or via FOIA Online. If you choose to contact Code 14 by mail, please address your correspondence as follows:

Office of the Judge Advocate General – General Litigation Division

ATTN: FOIA APPEALS  
1322 Patterson Ave., Suite 3000  
Washington Navy Yard, D.C. 20374-5066

If Code 14 does not receive any response from you within 30 business days of the date of this letter, your appeal will be administratively closed with no further action taken.

Sincerely,

N. A. BOSIAK  
FOIA Appeals Branch Chief  
General Litigation Division

**Enclosure 2**  
**IDA Determination of**  
**September 7, 2022**



DEPARTMENT OF THE NAVY  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:  
5720  
Ser 13/3FA0708.22  
September 7, 2022

Mr. Robert Hammond  
Perseverance2013@aol.com

Dear Mr. Hammond:

SUBJECT: FREEDOM OF INFORMATION ACT REQUEST DON-NAVY-2022-012074

This responds to your above-referenced Freedom of Information Act (FOIA) request dated August 24, 2022. You request a copy of the following:

- “1. All records of any kind **in the possession of DON JAG** from August 2, 2022 10:15 AM to present related to my email “DOJ Compliance Inquiry, OGIS Mediation +RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting)” and contact with the Office of Government Information Services. See Attachment A.
2. Records would include, but not be limited to:
  - a. All emails.
  - b. All records of communication with and responses by NARA’s Office of Government Information Services, including, but not limited to ogis@nara.gov; alina.semo@nara.gov; debra.wall@nara.gov; 'NARA NGC General Counsel FOIA' <foia@nara.gov>; alina.semo@nara.gov; 'Robert Hammond' <dod.foia.pa@gmail.com>; sheela.portonovo@nara.gov; teresa.brady@nara.gov; CHRISTA.Lemelin@nara.gov; daniel.levenson@nara.gov; kimberly.reed@nara.gov; carrie.mcguire@nara.gov; dwaine.bacon@nara.gov
  - c. All records of communication with and responses by Navy’s FOIA Public Liaison, Christopher Julka, Christopher.a.julka@navy.mil:
  - d. All internal Department of Navy Office of the Judge Advocate General (DON JAG) correspondence
  - e. Any communications by email, fax or in any other format between **DOJ JAG** any other entity, including DONFOIA-PA. Principals at DONFOIA-PA, whose information is in the public Domain, includes:

Richard R. Strong  
Deputy Director, FOIA/Privacy  
Department of the Navy  
P-202-685-6546  
F-202-685-6580  
Richard.r.strong@navy.mil



Robin. Patterson  
Head, SECNAV/CNO FOIA/PA Program Office (DNS-36).  
CNO Office of The Director, Navy Staff  
Organization and Management Division  
FOIA/PA Service Center 202 685-0412 [DONFOIA-PA@NAVY.MIL](mailto:DONFOIA-PA@NAVY.MIL)

Joshua Portner  
SECNAV/CNO FOIA Requester Service Center (DNS-36)  
Contractor Support  
(202) 685-6517  
[joshua.portner.ctr@navy.mil](mailto:joshua.portner.ctr@navy.mil)

f. All records of communication with the Office of DOD's Chief FOIA Officer, Joo Chung and her staff.

3. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional."

This final response is provided on behalf of the Office of the Judge Advocate General (OJAG). Your request was processed in accordance with the FOIA, 5 U.S.C. § 552, the Privacy Act, 5 U.S.C. § 552a; the Department of the Navy Freedom of Information Act Program, SECNAVINST 5720.42G; and the Department of the Navy Privacy Act Program, SECNAVINST 5211.5F.

Individuals who were most knowledgeable about the likely location of responsive records searched computer databases for any documents responsive to your request. No records responsive to your request were found. You may file another FOIA request for this information. If you choose to proceed with resubmitting your request, to the extent possible, please include specific information that may assist personnel in identifying the requested records, such as the date, title or name, command name, or subject matter of the record.

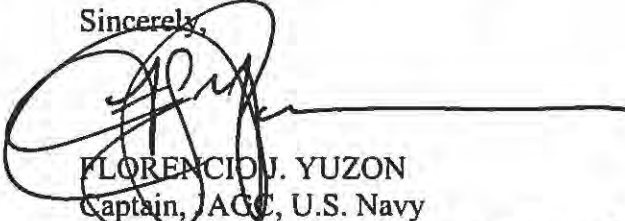
I am the official responsible for the processing of your request. This determination may be appealed, in writing, to OJAG, General Litigation Division (Code 14), 1322 Patterson Avenue, SE, Suite 3000, Washington Navy Yard, DC 20374-5066. Should you wish to appeal this matter, I recommend your envelope and statement bear the notation "FOIA Appeal" and include a copy of your initial request and a copy of this letter. Additionally, you are encouraged to provide an explanation of why you believe this determination is inadequate. Your appeal must be postmarked within 90 days of the date of this letter. No fees were generated by this request. You may also appeal via FOIA Online.

For any further assistance and to discuss any aspect of your request, you have the right to contact the DON FOIA Public Liaison at [DONFOIAPublicLiaison@navy.mil](mailto:DONFOIAPublicLiaison@navy.mil). Additionally, you have the right to contact the Office of Government Information Services (OGIS) to inquire about the FOIA mediation services they offer. The contact information of OGIS is: Office of

Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

My point of contact for this matter is Commander Brian F. Roach, JAGC, USN. If you have any questions, please contact him by e-mail at [brian.f.roach.mil@us.navy.mil](mailto:brian.f.roach.mil@us.navy.mil).

Sincerely,



FLORENCIO J. YUZON  
Captain, JAGC, U.S. Navy  
Deputy Assistant Judge Advocate General  
(Administrative Law)



**Enclosure 3**  
**IDA Determination of**  
**August 30, 2022**



**DEPARTMENT OF THE NAVY**  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:  
5720  
Ser 14/384  
August 30, 2022

***SENT VIA FOIA ONLINE AND DOD SAFE***

Mr. Robert Hammond  
11828 Wayland Street  
Oakton, VA 22124  
Email: perseverance2013@aol.com

**SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUEST DON-NAVY-  
2022-012074**

This letter responds your August 24, 2022 FOIA request, which was submitted on FOIA Online to the Office of the Judge Advocate General, Administrative Law Division (Code 13) and assigned tracking number DON-NAVY-2022-012074. Your request was assigned to my office via FOIA Online on August 29, 2022. In your request, you seek, in addition to a fee waiver and expedited processing, information regarding

[a]ll records of any kind in the possession of DON JAG from August 2, 2022 10:15 AM to present related to [your] email ‘DOJ Compliance Inquiry, OGIS Mediation +RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting’ and contact with the Office of Government Information Services.

You specify, further, that your request includes, but is not limited to, “all emails” and “records of communication with and responses by” NARA’s Office of Government Information Services, and other Department of Defense (DoD) and Department of the Navy (DON) components, including in the DoD Chief FOIA Officer, DON Public Liaison’s Office, and the Secretary of the Navy/Chief of Naval Operations FOIA Office (DNS-36) related to your email “DOJ Compliance Inquiry, OGIS Mediation +RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting.”

Your request was processed under applicable provisions of the FOIA, as amended, and the implementing Navy Department directive (SECNAVINST 5720.42G). As a result of that search, my office located 17 records responsive to your request. One of those records will be released to you, subject to redaction under FOIA exemption (b)(6), as that record contains personally identifiable information (PII). However, 16 responsive records will be withheld in full under FOIA exemption (b)(5), as those records contain

deliberative and pre-decisional information which cannot be segregated from non-exempt information; and FOIA exemption (b)(6), as the records contain names and other personally identifiable information. My review included consideration of the “foreseeable harm standard” (i.e., that information which might technically fall within an exemption should not be withheld from a FOIA requester unless the agency can identify a foreseeable harm or legal bar to disclosure).

I categorized your requestor status as other requestor under the FOIA. However, fees are not billable in this case. Additionally, because I am answering your request within 10 business days of its submission, your request for expedited processing is denied as moot.

I am the official responsible for making this decision under the FOIA. Because this response is adverse, I am advising you of your right to appeal this determination. Your appeal must be received (i.e., post-marked if by mail or submitted if by FOIA Online) within 90 calendar days from the date of this letter. Please provide the appellate authority (see below) the following in an envelope marked “FOIA Appeal”:

- a letter requesting an appeal that explains what you are appealing with any supporting arguments or reasons you think may be worthy of consideration;
- a copy of your initial request; and
- a copy of the letter of denial.

There are two ways to file an appeal—through FOIA Online or by mail.

**1. Appealing through FOIA Online.** You must first set up an account on FOIA Online before you can submit an appeal. To set up an account, go to FOIA Online (this is a website that will appear as the top hit if you search the internet for “FOIAonline”), click “Create Account” (a link located within the blue banner at the top in the upper right corner), enter your data into the field that subsequently appears, and click “Save” (at the bottom left of the screen). With your account thereby created, you will have the power to file an appeal on FOIAonline to any request you file on FOIAonline thereafter. To do so, locate your request (enter a keyword or the request tracking number in the “Search for” field on the “Search” tab), click on it, then the “Create Appeal” tab in the left-hand column. Complete the subsequent field, click “Save,” and FOIAonline will submit your appeal.

**2. Appealing by mail.** Address your appeal to:

Office of the Judge Advocate General  
Assistant Judge Advocate General (Civil Law)  
1322 Patterson Avenue S.E., Suite 3000  
Washington Navy Yard, DC 20374-5066

5720  
Ser 14/384  
August 30, 2022

The envelope and letter must bear the annotation "FOIA Appeal." Please include a copy of your original request, this response letter, and the grounds for your appeal.

If you would like to seek dispute resolution services, you have the right to contact the Department of the Navy's FOIA public liaison, Mr. Christopher Julka, at christopher.a.julka@navy.mil or (703) 697-0031. You may also seek dispute resolution services from the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, at (202) 741-5770 or ogis@nara.gov. OGIS provides a voluntary mediation process for resolving disputes between persons making FOIA requests and the Department of the Navy (DON). For more information, go to <https://www.archives.gov/ogis/about-ogis/contact-information>.

If you have further questions or concerns for my office, my point of contact is LT Nate Bosiak, JAGC, USN, who may be reached at (202) 685-5452 or by email at nathaniel.a.bosiak.mil@us.navy.mil.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. D. Schrock', with a long horizontal flourish extending to the right.

S. D. SCHROCK  
Director  
General Litigation Division

**Enclosure 4**  
**Agency's Redacted Records Release**  
**of August 30, 2022**

**From:** (b) (6) USN NAVCIVLAWSUPPACT DC (USA)  
**To:** (b) (6) USN NAVCIVLAWSUPPACT DC (USA)  
**Subject:** FW: [URL Verdict: Neutral][Non-DoD Source] FW: DOJ Compliance Inquiry, OGIS Mediation +RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting  
**Date:** Wednesday, August 24, 2022 1:41:00 PM  
**Attachments:** ATT00001.pdf  
DOD MASSIVE FALSE REPORTING PART II + Still Interested Abuse.pdf  
Correspondence only by Email. RE Preemptive Reply to DODNavy FW Still... (1.26 MB).msg  
(b) (6) FOIAs - Still Interested is enduring for my requests (21.7 KB).msg  
FW FOIA - Still Interested is enduring for my requests (22.0 KB).msg  
22-3417 (b) (6) Response (002).pdf

---

FYSA (b) (6).

Very Respectfully,

(b) (6)

---

**From:** (b) (6) @gmail.com <(b) (6) @gmail.com>  
**Sent:** Wednesday, August 24, 2022 1:32 PM  
**To:** (b) (6) @aol.com; donfoia-pa@navy.mil; robin.patterson@navy.mil; christopher.a.julka@navy.mil; (b) (6) @navy.mil; (b) (6) USN NAVCIVLAWSUPPACT DC (USA) (b) (6) @us.navy.mil; DHA.FOIA@mail.mil; Chung, Joo Y SES OSD OATSD (PCLT) (USA) <joo.y.chung2.civ@mail.mil>; OIP.ComplianceInquiry@usdoj.gov; (b) (6) @usdoj.gov; DHA.FOIA@mail.mil; dha.ncr.pcl.mbx.foia-requests@mail.mil; dha.bethesa.ncr.medical.mbx.wrn-m-hipaa-mail@mail.mil; (b) (6) @aecom.com; (b) (6) CIV DHA OFC COFS (USA) <(b) (6) civ@mail.mil>; Davidge, Joseph E (Joe) JR CIV DHA DHA (USA) <joseph.e.davidge.civ@mail.mil>; donfoia-pa@navy.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) CIV WHS ESD (USA) <(b) (6) .civ@mail.mil>; (b) (6) @aecom.com; (b) (6) @navy.mil; (b) (6) @med.navy.mil; (b) (6) @navy.mil; (b) (6) @med.navy.mil; DONFOIA-PA@navy.mil; christopher.a.julka@navy.mil; (b) (6) .ctr@navy.mil; (b) (6) @navy.mil; (b) (6) .ctr@navy.mil; (b) (6) .ctr@navy.mil; (b) (6) @navy.mil; robin.patterson@navy.mil; thomas.b.Modly.civ@mail.mil; (b) (6) .mil@mail.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) @mail.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) .mil@mail.mil; dod.foia.pa@gmail.com; usarmy.jbsa.medcom.list.medcom-foia-users@mail.mil; usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil; osd.mc-alex.odcmo.mbx.foia-liaison@mail.mil  
**Cc:** (b) (6) .civ@mail.mil; (b) (6) .civ@mail.mil; (b) (6) CIV USARMY MEDCOM HQ (USA) <(b) (6) .civ@mail.mil>; (b) (6) .civ@mail.mil; usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil; usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia@mail.mil; usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil; (b) (6) .mil@mail.mil; (b) (6) .mil@mail.mil; (b) (6) CIV USARMY MEDCOM RHC-P (USA) <(b) (6) .civ@mail.mil>; (b) (6) .civ@mail.mil; (b) (6) .mil@mail.mil; usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil; 'FOIA' <foia@nara.gov>; (b) (6) @gao.gov; (b) (6) @gao.gov;

(b) (6) @nara.gov; ogis@nara.gov; OIP.ComplianceInquiry@usdoj.gov;  
(b) (6) @usdoj.gov; garym.stern@nara.gov; 'NARA NGC General Counsel FOIA'  
<foia@nara.gov>; foiacomplaine@gmail.com; (b) (6) @gmal.com;  
foiacompliance@gmail.com

**Subject:** [URL Verdict: Neutral][Non-DoD Source] FW: DOJ Compliance Inquiry, OGIS Mediation +RE:  
Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting

### **Summary.**

-  
Navy waited four years to initiate still interested letters for appeals and requests, despite my numerous pre-emptive correspondences that my interests are enduring and the fact that there is no procedure for still interested inquiries to appeals. Navy is simply trying to close cases without having to report them in their annual FOIA reports on a massive scale.

Navy's preemptive letters do not comport with DOJ OIP guidelines.

Navy is engaged in massive false FOIA reporting with respect to specific case numbers that I identified and massively many more. This is a DOD problem.

Office of Government Information Services (OGIS) and DOJ Office of Information Policy (DOJ OIP) have not acted in accordance with law in addressing my mediation requests and compliance inquiries.

Audits are needed, not only with respect to the issues cited herein, but also to the adequacy of funding impacting mission performance of OGIS and DOJ OIP.

### **OGIS Actions.**

(b) (6), (b) (6),

By law OGIS cannot refuse mediation of DOD's massive abuse of still interested letters with my countless preemptive still interested correspondence dating back many years. OGIS must act on my request below that "I want mediation, not a reply from the agency FPL."

OGIS must also address Navy's massive incontrovertible False FOIA reporting. The FOIA statute requires that "The Office of Government Information Services shall— ... (B) review compliance with this section by administrative agencies.

Your attached correspondence 22-3417 (b) (6) Response letter improperly closed this case without addressing the issues: (1) Navy's still interested inquires relating to appeals are improper as there is no procedure for that, (2) Navy's still interested inquiries are improper in that I had preemptively and repeatedly stated my enduring interest prior to the inquiries, (3) Navy is involved in massive false FOIA reporting which OGIS must address.

This is particularly disturbing in that over a month ago I sent OGIS for posting to the Annual Open FOIA meeting my public comment, "DOD MASSIVE FALSE REPORTING PART II + Still Interested Abuse. Updated July 27, 2022" outlining

these same issues. OGIS/DOJ OIP have not posted that presentation and Navy continued its massive abuse of still interested letters and False FOIA reporting, *See* [https://www.documentcloud.org/app?q=%2Buser%3A\(b\) \(6\) -106693%20](https://www.documentcloud.org/app?q=%2Buser%3A(b) (6) -106693%20) . See also “Failure - FOIA Compliance Oversight & Funding. Part 2. No Joking Matter.”

**ACTION.**

1. Immediately open individual mediation cases, per my request below, directly with DON JAG, not the Agency FPL. There is no such thing as “USN FOIA office” cited in your letter; OGIS is attempting to obfuscate that you did not engage with DON JAG, but rather with the Agency FPL, which is a distinct, separate, non-exclusive right from OGIS. OGIS cannot refuse mediation. If Navy refuses to engage in mediation, OGIS must so state in any subsequent closure letter and in annual Ombuds reports.
2. Immediately address Navy’s incontrovertible False FOIA reporting and include your findings/action in a subsequent closure letter.
3. Issue proper closure letters to each instance, with copies to the head of DON JAG, and the DON CIO, who is the Department of the Navy's Senior Military Component Official for the Freedom of Information Act (FOIA).
4. I am today filing an expedited FOIA request seeking OGIS case processing records related to this mater – promptly reply.

**DOJ OIP Actions.**

**(b) (6)**, **(b) (6)** :

1. Per below, please advise me of the individualized compliance inquiry case numbers to my complaints below and the status of those inquiries.
2. Address each instance of FALSE FOIA reporting.
3. Address impropriety of still interested inquiries applied to appeals.
4. Address Navy misconduct in issuing the still interested letters, which do not comport with DOJ OIP guidelines as to when they can be issued.
5. Address OGIS misconduct cited above, which violates both law and DOJ OIP Policy.
6. Issue proper closure letters to each instance, with copies to the head of DON JAG, and the DON CIO, who is the Department of the Navy's Senior Military Component Official for the Freedom of Information Act (FOIA).

**GAO,**

- Please include these matters in any FOIA audits, including those relating to agency backlogs, Navy’s malign tactic of reducing backlogs by closing them pursuant to still interested inquiries. Please examine the extent of the problem. For the agency to wait four years to inquire about open FOIA requests and appeals, that have apparently not been reported as open, is not only a procedural issue, but an ethical one as well.

With my deep respect,

**(b) (6)**

---

From: **(b) (6)** @aol.com <**(b) (6)** @aol.com>



**Sent:** Tuesday, August 2, 2022 10:15 AM

**To:** [donfoia-pa@navy.mil](mailto:donfoia-pa@navy.mil); [robin.patterson@navy.mil](mailto:robin.patterson@navy.mil); [christopher.a.julka@navy.mil](mailto:christopher.a.julka@navy.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\).mil@us.navy.mil](mailto:(b) (6).mil@us.navy.mil); [DHA.FOIA@mail.mil](mailto:DHA.FOIA@mail.mil); [joo.y.chung2.civ@mail.mil](mailto:joo.y.chung2.civ@mail.mil); [OIP.ComplianceInquiry@usdoj.gov](mailto:OIP.ComplianceInquiry@usdoj.gov); [\(b\) \(6\)@usdoj.gov](mailto:(b) (6)@usdoj.gov); [DHA.FOIA@mail.mil](mailto:DHA.FOIA@mail.mil); [dha.ncr.pcl.mbx.foia-requests@mail.mil](mailto:dha.ncr.pcl.mbx.foia-requests@mail.mil); [dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil](mailto:dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil); [\(b\) \(6\)@aecom.com](mailto:(b) (6)@aecom.com); [\(b\) \(6\).civ@mail.mil](mailto:(b) (6).civ@mail.mil); [joseph.e.davidge.civ@mail.mil](mailto:joseph.e.davidge.civ@mail.mil); [donfoia-pa@navy.mil](mailto:donfoia-pa@navy.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\) CIV WHS ESD \(USA\) <\(b\) \(6\).civ@mail.mil>](mailto:(b) (6) CIV WHS ESD (USA) <(b) (6).civ@mail.mil>); [\(b\) \(6\)@aecom.com](mailto:(b) (6)@aecom.com); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\)@med.navy.mil](mailto:(b) (6)@med.navy.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\)@med.navy.mil](mailto:(b) (6)@med.navy.mil); [DONFOIA-PA@navy.mil](mailto:DONFOIA-PA@navy.mil); [Christopher.a.julka@navy.mil](mailto:Christopher.a.julka@navy.mil); [\(b\) \(6\).ctr@navy.mil](mailto:(b) (6).ctr@navy.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\).ctr@navy.mil](mailto:(b) (6).ctr@navy.mil); [\(b\) \(6\).ctr@navy.mil](mailto:(b) (6).ctr@navy.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [robin.patterson@navy.mil](mailto:robin.patterson@navy.mil); [thomas.b.Modly.civ@mail.mil](mailto:thomas.b.Modly.civ@mail.mil); [\(b\) \(6\).mil@mail.mil](mailto:(b) (6).mil@mail.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\)@navy.mil](mailto:(b) (6)@navy.mil); [\(b\) \(6\).mil@mail.mil](mailto:(b) (6).mil@mail.mil); [dod.foia.pa@gmail.com](mailto:dod.foia.pa@gmail.com); [usarmy.jbsa.medcom.list.medcom-foia-users@mail.mil](mailto:usarmy.jbsa.medcom.list.medcom-foia-users@mail.mil); [usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil](mailto:usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil); [osd.mc-alex.odcmo.mbx.foia-liaison@mail.mil](mailto:osd.mc-alex.odcmo.mbx.foia-liaison@mail.mil)

**Cc:** [\(b\) \(6\).civ@mail.mil](mailto:(b) (6).civ@mail.mil); [\(b\) \(6\).civ@mail.mil](mailto:(b) (6).civ@mail.mil); [\(b\) \(5\).civ@mail.mil](mailto:(b) (5).civ@mail.mil); [\(b\) \(6\).civ@mail.mil](mailto:(b) (6).civ@mail.mil); [usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil](mailto:usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil); [usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia@mail.mil](mailto:usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia@mail.mil); [usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil](mailto:usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil); [\(b\) \(6\).mil@mail.mil](mailto:(b) (6).mil@mail.mil); [\(b\) \(6\).civ@mail.mil](mailto:(b) (6).civ@mail.mil); [\(b\) \(6\).civ@mail.mil](mailto:(b) (6).civ@mail.mil); [\(b\) \(6\).mil@mail.mil](mailto:(b) (6).mil@mail.mil); [usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil](mailto:usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil); 'FOIA' <[foia@nara.gov](mailto:foia@nara.gov)>; [\(b\) \(6\)@gao.gov](mailto:(b) (6)@gao.gov); [\(b\) \(6\)@gao.gov](mailto:(b) (6)@gao.gov); [\(b\) \(6\)@nara.gov](mailto:(b) (6)@nara.gov); [ogis@nara.gov](mailto:ogis@nara.gov); [OIP.ComplianceInquiry@usdoj.gov](mailto:OIP.ComplianceInquiry@usdoj.gov); [\(b\) \(6\)@usdoj.gov](mailto:(b) (6)@usdoj.gov)

**Subject:** DOJ Compliance Inquiry, OGIS Mediation +RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting

Ms. Chung (DOD Chief FOIA Officer), et al.

Today, **August 2, 2022**, I received the attached email “still Interested It” from Department of Navy’s Office of Judge Advocate General (DON JAG) with an improper “still interested letter” letter dated **June 16, 2022** regarding scores of FOIA requests and appeals dating back to 2018.

1. There I s no provision to question “still interested” with regard to an administrative appeal.
2. I answered this very same letter by email below.
3. I have provided countless preemptive replies to still interested inquiries.
4. Navy is engaged in massive false FOIA reporting and is attempting to close old cases without having to account for the processing time.
5. Navy’s continued still interested inquiries do not comport with DOJ guidelines and are

therefore each a violation of the Administrative Procedures Act. See [OIP Releases New Guidance for Agency Still-Interested Inquiries | OIP | Department of Justice](https://www.justice.gov/oip/blog/oip-releases-new-guidance-agency-still-interested-inquiries)  
<https://www.justice.gov/oip/blog/oip-releases-new-guidance-agency-still-interested-inquiries>

DOJ/DOJ OIP,

Please open individual compliance inquiries regarding still interested abuse and false FOIA reporting for the following FOIA requests and appeals cited in the attached June 16, 2022 letter:

FREEDOM OF INFORMATION ACT (FOIA) REQUESTS DON-NAVY-2019-000004, DON-NAVY-2018-011918, DON-NAVY-2018-002619, DON-NAVY-2018-002156, DON-NAVY-2018-002630, DON-NAVY-2018-002663, DON-NAVY-2018-001684, DON-NAVY-2018-002615, DON-NAVY-2019-002108, DON-NAVY-2019-002293, DON-NAVY-2019-002310, DON-NAVY-2019-002335, DON-NAVY-2018-011318, DON-NAVY-2019-002401, DON-NAVY-2018-011904, DON-NAVY-2021-000407; FOIA APPEALS DON-NAVY-2019-000581, DON-NAVY-2019-006137, DON-NAVY-2019-001380, DON-NAVY-2019-001389, DON-NAVY-2019-001391, DON-NAVY-2019-001392, DON-NAVY-2019-001515, DON-NAVY-2019-001518, DON-NAVY-2019-002112, DON-NAVY-2019-002294, DON-NAVY-2019-002311, DON-NAVY-2019-002336, DON-NAVY-2019-002341, DON-NAVY-2019-002402, DON-NAVY-2019-002977, DON-NAVY-2022-001294

Reissue guidance regarding still interested in queries.

**(b) (6)**, please allocate sufficient funding for DOJ OIP to accomplish its FOIA compliance mission. I plan to send OIP some 2,000 compliance inquiries near term.

OGIS,

Please open individual mediation cases for the above. I want mediation, not a reply from the agency FPL. This abuse continues and we must get to the bottom of it. Reissue guidance regarding still interested inquiries.

GAO,

Please include in any FOIA audits, including those relating to agency backlogs, Navy's malign tactic of reducing backlogs by closing them pursuant to still interested inquiries. Please examine the extent of the problem. For the agency to wait four years to inquire about open FOIA requests and appeals, that have apparently not been reported as open, is not only a procedural issue, but an ethical one as well.

While I want to work with DOD directly to resolve open matters, I cannot continue new abuse. This must stop.

With my deep respect,



[liaison@mail.mil](mailto:liaison@mail.mil); 'usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia@mail.mil' [usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia@mail.mil](mailto:usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia@mail.mil); 'usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil' [usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil](mailto:usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil); (b) (6) .mil@mail.mil' (b) (6) .mil@mail.mil; (b) (6) .mil@mail.mil; (b) (6) .mil@mail.mil; (b) (6) .civ@mail.mil' (b) (6) .civ@mail.mil; (b) (6) .civ@mail.mil' (b) (6) .civ@mail.mil; (b) (6) .civ@mail.mil; (b) (6) .mil@mail.mil' (b) (6) .mil@mail.mil; 'usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil' [usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil](mailto:usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil); 'FOIA' [foia@nara.gov](mailto:foia@nara.gov); (b) (6) @gao.gov' (b) (6) @gao.gov; (b) (6) @gao.gov' (b) (6) @gao.gov; (b) (6) @nara.gov' (b) (6) @nara.gov; 'ogis@nara.gov' [ogis@nara.gov](mailto:ogis@nara.gov)

**Subject:** RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting

My still interested responses apply to all FOIA requests and appeals ever submitted.

Do not ask again.

(b) (6)

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**From:** (b) (6) @aol.com <(b) (6) @aol.com>  
**Sent:** Friday, June 17, 2022 12:58 PM  
**To:** 'donfoia-pa@navy.mil' <[donfoia-pa@navy.mil](mailto:donfoia-pa@navy.mil)>; 'robin.patterson@navy.mil' <[robin.patterson@navy.mil](mailto:robin.patterson@navy.mil)>; 'christopher.a.julka@navy.mil' <[christopher.a.julka@navy.mil](mailto:christopher.a.julka@navy.mil)>; (b) (6) @navy.mil' (b) (6) @navy.mil'; (b) (6) .mil@us.navy.mil' (b) (6) .mil@us.navy.mil'; 'DHA.FOIA@mail.mil' <[DHA.FOIA@mail.mil](mailto:DHA.FOIA@mail.mil)>; 'joo.y.chung2.civ@mail.mil' <[joo.y.chung2.civ@mail.mil](mailto:joo.y.chung2.civ@mail.mil)>; 'OIP.ComplianceInquiry@usdoj.gov' <[OIP.ComplianceInquiry@usdoj.gov](mailto:OIP.ComplianceInquiry@usdoj.gov)>; (b) (6) @usdoj.gov' <(b) (6) @usdoj.gov>; 'DHA.FOIA@mail.mil' <[DHA.FOIA@mail.mil](mailto:DHA.FOIA@mail.mil)>; 'dha.ncr.pcl.mbx.foia-requests@mail.mil' <[dha.ncr.pcl.mbx.foia-requests@mail.mil](mailto:dha.ncr.pcl.mbx.foia-requests@mail.mil)>; 'dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil' <[dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil](mailto:dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil)>; (b) (6) @aecom.com' <(b) (6) @aecom.com>; (b) (6) .civ@mail.mil' (b) (6) .civ@mail.mil'; 'joseph.e.davidge.civ@mail.mil' <[joseph.e.davidge.civ@mail.mil](mailto:joseph.e.davidge.civ@mail.mil)>; 'donfoia-pa@navy.mil' <[donfoia-pa@navy.mil](mailto:donfoia-pa@navy.mil)>; (b) (6) @navy.mil' <(b) (6) @navy.mil>; (b) (6) @navy.mil' <(b) (6) @navy.mil>; (b) (6) CIV WHS ESD (USA)' (b) (6) .civ@mail.mil'; (b) (6) @aecom.com' <(b) (6) @aecom.com>; (b) (6) @navy.mil' (b) (6) @navy.mil'; (b) (6) @med.navy.mil' (b) (6) @med.navy.mil'; (b) (6) @navy.mil' (b) (6) @navy.mil'; (b) (6) @med.navy.mil' (b) (6) @med.navy.mil'; 'DONFOIA-PA@navy.mil' <[DONFOIA-PA@navy.mil](mailto:DONFOIA-PA@navy.mil)>; 'Christopher.a.julka@navy.mil' <[Christopher.a.julka@navy.mil](mailto:Christopher.a.julka@navy.mil)>; (b) (6) .ctr@navy.mil' (b) (6) .ctr@navy.mil'; (b) (6) @navy.mil' (b) (6) @navy.mil'; (b) (6) @navy.mil'; (b) (6) .ctr@navy.mil' <(b) (6) .ctr@navy.mil>; (b) (6) .ctr@navy.mil' (b) (6) .ctr@navy.mil'; (b) (6) @navy.mil' (b) (6) @navy.mil'; 'robin.patterson@navy.mil' <[robin.patterson@navy.mil](mailto:robin.patterson@navy.mil)>; 'thomas.b.Modly.civ@mail.mil' <[thomas.b.Modly.civ@mail.mil](mailto:thomas.b.Modly.civ@mail.mil)>; (b) (6) .mil@mail.mil'

<(b) (6) .mil@mail.mil>; (b) (6) @navy.mil' <(b) (6) @navy.mil>;  
(b) (6) @navy.mil' (b) (6) @navy.mil>; (b) (6) @navy.mil'  
(b) (6) @navy.mil>; (b) (6) @navy.mil' <(b) (6) @navy.mil>; (b) (6) @navy.mil'  
<(b) (6) @navy.mil>; (b) (6) @navy.mil' <(b) (6) @navy.mil>; (b) (6) @mail.mil'  
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(b) (6) @navy.mil' (b) (6) @navy.mil>; (b) (6) @navy.mil'  
(b) (6) @navy.mil>; (b) (6) @navy.mil' (b) (6) @navy.mil>;  
(b) (6) @navy.mil' (b) (6) @navy.mil>; (b) (6) .mil@mail.mil'  
(b) (6) .mil@mail.mil>; 'dod.foia.pa@gmail.com' <dod.foia.pa@gmail.com>;  
'usarmy.jbsa.medcom.list.medcom-foia-users@mail.mil' <usarmy.jbsa.medcom.list.medcom-foia-  
users@mail.mil>; 'usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil'  
<usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil>; 'osd.mc-  
alex.odcmo.mbx.foia-liaison@mail.mil' <osd.mc-alex.odcmo.mbx.foia-liaison@mail.mil>  
**Cc:** (b) (6) .civ@mail.mil' (b) (6) .civ@mail.mil>; (b) (6) .civ@mail.mil'  
(b) (6) .civ@mail.mil>; (b) (6) .civ@mail.mil' <(b) (6) .civ@mail.mil>;  
(b) (6) .civ@mail.mil' (b) (6) .civ@mail.mil>; 'usarmy.belvoir.hqda-oaa-  
ahs.mbx.rmda-foia-public-liaison@mail.mil' <usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-  
liaison@mail.mil>; 'usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia@mail.mil' <usarmy.belvoir.hqda-  
oaa-ahs.mbx.rmda-foia@mail.mil>; 'usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-  
liaison@mail.mil' <usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil>;  
(b) (6) .mil@mail.mil' <(b) (6) .mil@mail.mil>; (b) (6) .mil@mail.mil'  
<(b) (6) .mil@mail.mil>; (b) (6) .civ@mail.mil' (b) (6) .civ@mail.mil>;  
(b) (6) .civ@mail.mil' <(b) (6) .civ@mail.mil>; (b) (6) .mil@mail.mil'  
<(b) (6) .mil@mail.mil>; 'usarmy.tripler.medcom-tamc.mbx.customer-relations-  
office@mail.mil' <usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil>; 'FOIA'  
<foia@nara.gov>; (b) (6) @gao.gov' (b) (6) @gao.gov>; (b) (6) @gao.gov'  
<(b) (6) @gao.gov>; (b) (6) @nara.gov' <(b) (6) @nara.gov>; 'ogis@nara.gov'  
<ogis@nara.gov>

**Subject:** Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting

**Importance:** High

Joo Chung (DOD Chief FOIA Officer), Mr. Julka (Navy FOIA Public Liaison), DONFOIA-PA, Robin Patterson, Joe Davidge, (DHA FOIA Public Liaison), (b) (6) (DOJ), (b) (6) (NARA OGIS), et al:

This responds to Navy's letter Ser 14-245 and five emails citing multiple FOIA requests and appeals regarding still interested inquiries of certain FOIA requests and appeals dating back to 2018.

**DOD MASSIVE FALSE FOIA REPORTING.** As I spot checked a few of the FOIA tracking numbers cited in Navy's letter Ser 14-245, which Navy cites as open and for which is seeking still interested replies, none are listed in DOD's FY 2021 FOIA raw data. <https://open.defense.gov/Transparency/FOIA/DoD-Annual-Reports-to-AG/> . This is a blatant attempt to cover-up false FOIA reporting, in my view. It will not stand. There may also be ethical and performance standards issues.

**IMPROPER STILL INTERESTED INQUIRY**

First, there is no provision for a still interested inquiry to an appeal.

Nevertheless, I am reiterating, as cited in the 11 attached still interested preemptive replies:

**STILL-INTERESTED PREEMPTIVE REPLY.** This is a preemptive reply to the Justice Department guidelines the procedure known as a “still interested” inquiry, through which a FOIA officer can confirm that the requester has not lost interest in obtaining the documents.

My interest in all FOIA requests and appeals submitted to your office is enduring, meaning that my interest in seeking replies to all past and future FOIA requests and appeals remains in effect until each request has been answered fully and the time for judicial review has passed. Please do not initiate any "still interested" inquiries. This serves as my notice of enduring interest and automatic reply to any future questions of interest by your office. There are no reasonable grounds to ever conclude in the future that I am not interested in this request.

ANY referral or transfer of any of my FOIA requests/appeals must include my still interested preemptive reply.

**ACTION FOA ALL ADDRESSEES.**

1. **All.** Append this preemptive still interested reply to all requests and appeals received from me, (b) (6), (b) (6) @aol.com.
2. **DOD Chief FOIA Officer.** review and amend your FOIA raw data dating back to 2013 where there are massive numbers of FOIA requests and appeals still open that are not being reported as such. Initiate administrative reviews.
3. **DOJ** conduct independent audits of all DOD annual FOIA reports to raw data and electronic FOIA portals (e.g., FOIAonline) against raw data from 2013 forward or get GAO to do it for you. DOD’s FOIA reporting is massively false. Please address at the June 29, 2022 FOIA Open Meeting your efforts to date to address massive FALSE FOIA Reporting. Please address the case numbers cited herein.
4. **NARA Office of Government Information Services,** at the upcoming June 29, 2022 FOIA Open Meeting, OGIS will be addressing it’s Freedom of Information Act Ombudsman 2022 Report for Fiscal Year 2021. “The Freedom of Information Act (FOIA) mandates that the Office of Government Information Services (OGIS) review agency FOIA policies, procedures and **compliance**, 5 U.S.C. §§ 552 (h)(2)(A) and 552 (h)(2)(B).” I have provided OGIS countless examples of massive False FOAI Reporting, including DOD and NARA. Please discuss at the meeting your efforts to date (if any) to address this.

With my deep respect,

(b) (6)  
Whistleblower



**Sent:** Friday, June 17, 2022 7:53 AM

**To:** (b) (6) @aol.com

**Subject:** Still interested letter

Still interested letter

DEPARTMENT OF THE NAVY  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:

5720

Ser 14/245

June 16, 2022

SENT VIA FOIA ONLINE, DOD SAFE, AND U.S. MAIL

(b) (6)  
REDACTED

E-mail: (b) (6) @aol.com

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUESTS DON-NAVY-2019-000004, DON-NAVY-2018-011918, DON-NAVY-2018-002619, DON-NAVY-2018-002156, DON-NAVY-2018-002630, DON-NAVY-2018-002663, DON-NAVY-2018-001684, DON-NAVY-2018-002615, DON-NAVY-2019-002108, DON-NAVY-2019-002293, DON-NAVY-2019-002310, DON-NAVY-2019-002335, DON-NAVY-2018-011318, DON-NAVY-2019-002401, DON-NAVY-2018-011904, DON-NAVY-2021-000407; FOIA APPEALS DON-NAVY-2019-000581, DON-NAVY-2019-006137, DON-NAVY-2019-001380, DON-NAVY-2019-001389, DON-NAVY-2019-001391, DON-NAVY-2019-001392, DON-NAVY-2019-001515, DON-NAVY-2019-001518, DON-NAVY-2019-002112, DON-NAVY-2019-002294, DON-NAVY-2019-002311, DON-NAVY-2019-002336, DON-NAVY-2019-002341, DON-NAVY-2019-002402, DON-NAVY-2019-002977, DON-NAVY-2022-001294

This letter responds to your FOIA appeals submitted between November 1, 2018 and November 4, 2021, which were assigned tracking numbers referenced in the above subject line.

Your underlying requests, referenced in the above subject line, were submitted to the Secretary of the Navy/Chief of Naval Operations FOIA Office (DNS-36), the initial denial authority in fiscal years 2018-2021.

As of today, your appeals are still pending. I write to inquire as to whether you are still interested in your appeals being adjudicated by the Office of the Judge Advocate General, General Litigation Division (Code 14). If you are still interested, please inform Code 14 within 30 business days from the date of this letter by mail or via FOIA Online. If you choose to contact Code 14 by mail, please address your correspondence as follows:

Office of the Judge Advocate General – General Litigation Division

ATTN: FOIA APPEALS  
1322 Patterson Ave., Suite 3000

Washington Navy Yard, D.C. 20374-5066

If Code 14 does not receive any response from you within 30 business days of the date of this letter, your appeal will be administratively closed with no further action taken.

Sincerely,

(b) (6)

FOIA Appeals Branch Chief  
General Litigation Division



**Enclosure 5**

**DOD MASSIVE FALSE REPORTING PART II +**

**Still Interested Abuse.**

**Updated July 27, 2022**



**HOT**

**DOD MASSIVE FALSE REPORTING PART II**  
**+**  
**NAVY STILL INTERESTED ABUSE**  
**+**  
**COVER-UP?**

**PUBLIC COMMENT**  
**June 17, 2022**  
**Updated July 27, 2022**

**by Robert Hammond**  

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**foiacompliance@gmail.com**

## Update July 27, 2022

This presentation is updated to add seven additional improper still interested letters from Department of Navy's Office of the Judge Advocate General (DON JAG) regarding open administrative appeals.

I originally reported that ten of sixteen open FOIA requests were not reported at all in Navy's FY 2019 FOIA Raw Data.

Of the DON JAG's seven additional appeals still interest letters cited herein three appeals were not reported at all while the remaining four were reported without receipt dates.

Moreover, Navy's letters cite two different request numbers associated with Appeal DON-NAVY-2019-002305 and cite the same request number (DON-NAVY-2018-003737) as associated with two different appeals.

Then, one appeal (DON-NAVY-2019-002131) does not have a request number associated with it indicating further false FOIA reporting.

- **Navy has no idea whatsoever of what they are doing**
- **Still interested inquiries are improper**
- **Navy's annual FOIA report and DOJ's FOIA.gov data are massively false**
- **DOJ OIP and OGIS have failed miserably in their compliance oversight**

<b>Appeals still interested Tracking Numbers</b>	<b>2019 Report Raw Data</b>	<b>Applicable Request</b>
DON-NAVY-2019-002114	No date received	DON-NAVY-2018-010276
DON-NAVY-2019-002131	No date received	No tracking number
DON-NAVY-2019-002282	Not Reported	DON-NAVY-2018-010276
DON-NAVY-2019-002305	No date received	DON-NAVY-2018-010416
DON-NAVY-2019-002305	No date received	DON-NAVY-2018-003737
DON-NAVY-2019-002333	Not Reported	DON-NAVY-2018-003737
DON-NAVY-2019-002402	No date received	DON-NAVY-2018-011804
DON-NAVY-2019-002416	Not Reported	DON-NAVY-2018-010014

## Hyperlinked Outline

### 1. [Preface – Why this matters!](#)

- Posting FOIA Logs
- Estimated Completion Dates
- Improper Still interested inquiries
- Massive False FOIA Reporting
- Department of Justice Office of Information Policy (DOJ OIP) Compliance Inquiries (requiring ten minutes to validate)

### 2. [Email: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting](#)

### 3. [Email: DOJ OIP Compliance Inquiry 22-C, FY 2021 False Reporting. DON-NAVY-2018-002619 \[one of ten submitted\]](#)

## **PREFACE – Why this matters!**

### **BREAKING NEWS, hot off the press today, Navy Malfeasance??**

This presentation addresses the FOIA Advisory Tech Committee Recommendation #2 requiring proactive posting of FOIA Logs, Office of Government Information Services Advisory Opinion No. 2020-01: Agencies Must Provide Estimated Dates of Completion Upon Request. [ [archives.gov/ogis/advisory-opinions/2020-01-agencies-must-provide-edcs](https://www.archives.gov/ogis/advisory-opinions/2020-01-agencies-must-provide-edcs) ] and DOJ's procedures for "Still Interested" inquiries.

### **Many of my FOIA requests and appeals seek records relating to False FOIA reporting and potential malfeasance in the FOIA process.**

Within DOD, I followed the chain of command from the FOIA Officer through the Agency/Department FOIA Public Liaison (FPL), to DOD's Chief FOIA Officer, to agency/department senior leadership, to service/agency secretariats, to the Secretary of Defense. I also submitted numerous DOJ OIP compliance inquiries and requests for mediation/compliance determinations to NARA's Office of Government Services (OGIS) which has statutory mandates for mediation and compliance oversight.

When I sought from DOD status and estimated completion dates for my outstanding appeals and FOIA requests, rather than provide such information, Department of Navy's Judge Advocate General (DON JAG) General Litigation Division Nathan A. Bosiak sent me seven "Still Interested" inquiries within an hour and a half.

This is despite my FOIA requests containing still interests preemptive replies and my eleven still interested emails stating that my interest in my FOIA requests is enduring:

STILL-INTERESTED PREEMPTIVE REPLY.

This is a preemptive reply to the Justice Department guidelines procedure known as a "still interested" inquiry, through which a FOIA officer can confirm that the requester has not lost interest in obtaining the documents.

My interest in all FOIA requests submitted to your office is enduring, meaning that my interest in seeking replies to all past and future

FOIA requests remains in effect until each request has been answered fully and the time for judicial review has passed. Please do not initiate any "still interested" inquiries. This serves as my notice of enduring interest and automatic reply to any future questions of interest by your office. There are no reasonable grounds to ever conclude in the future that I am not interested in this request.

ANY referral or transfer of any of my FOIA requests/appeals must include my still interested preemptive reply.

### **MASSIVE FALSE FOIA REPORTING.**

See my public comment, "DOD Massive False FOIA Reporting. Part 1. Letters to SECDEF, Complaint to DOJ OIG;" *see also* "Failure - FOIA Compliance Oversight & Funding. Part 2. No Joking Matter."

Out of **SIXTEEN** open FOIA requests cited in DON JAG's letter 5720 Ser 14/245 of June 16, 2022 seeking still interested replies **TEN** are not cited in DOD's Navy FY 2021 FOIA Raw Data, **indicating known False FOIA reporting**. DON JAG (likely Bosiak) submits its own quarterly and annual FOIA reports through DONFOIA-PA to DOD. [A prior director admitted that during his tenure they were inaccurate.]

### **DOJ OIP COMPLIANCE INQUIRIES.**

While I still have open DOJ OIP FOIA compliance inquiries dating back to 2013, I nevertheless submitted ten new DOJ OIP compliance inquiries citing the TEN open FOIA requests as not being reported in DOD's FY 2021 annual FOIA Report Raw Data.

It took me less than ten minutes to check each of the SIXTEEN open FOIA request against DOD's FY 2021 FOIA Raw Data (<https://open.defense.gov/Transparency/FOIA/DoD-Annual-Reports-to-AG/>) and ascertain that the TEN below are not reported:

DON-NAVY-2019-000004  
DON-NAVY-2018-011918  
DON-NAVY-2018-002619  
DON-NAVY-2018-002156  
DON-NAVY-2018-002630

DON-NAVY-2018-002663

DON-NAVY-2018-001684

DON-NAVY-2018-002615

DON-NAVY-2018-011318

DON-NAVY-2018-011904

## **2. Email: Preemptive Reply to DOD/Navy**

**FW: Still interested letters + DOD/Navy**

**Massive False FOIA Reporting**



**From:** [perseverance2013@aol.com](mailto:perseverance2013@aol.com)  
**To:** "donfoia-pa@navy.mil"; "robin.patterson@navy.mil"; "christopher.a.julka@navy.mil"; "wendy.winston@navy.mil"; "nathaniel.a.bosiak.mil@us.navy.mil"; "DHA.FOIA@mail.mil"; "joo.y.chung2.civ@mail.mil"; "OIP.ComplianceInquiry@usdoj.gov"; "bobak.Talebian@usdoj.gov"; "DHA.FOIA@mail.mil"; "dha.ncr.pcl.mbx.foia-requests@mail.mil"; "dha.bethesa.ncr.medical.mbx.wrrm-hipaa-mail@mail.mil"; "ambler.jackson@aecom.com"; "judy.j.bizzell.civ@mail.mil"; "joseph.e.davidge.civ@mail.mil"; "donfoia-pa@navy.mil"; "grant.lattin@navy.mil"; "james.mckeeon@navy.mil"; "Marye, Charles C CIV WHS ESD (USA)"; "ambler.jackson@aecom.com"; "brenda.squires@navy.mil"; "della.garcia@med.navy.mil"; "susan.reyes@navy.mil"; "heather.partridge@med.navy.mil"; "DONFOIA-PA@navy.mil"; "Christopher.a.julka@navy.mil"; "joshua.portner.ctr@navy.mil"; "mary.p.shaw@navy.mil"; "montant.johnson.ctr@navy.mil"; "Raymond.Hartwick.ctr@navy.mil"; "richard.r.strong@navy.mil"; "robin.patterson@navy.mil"; "thomas.b.Modly.civ@mail.mil"; "raquel.c.bono.mil@mail.mil"; "wendy.winston@navy.mil"; "grant.lattin@navy.mil"; "emilee.k.baldini@navy.mil"; "kirk.foster@navy.mil"; "adam.inch@navy.mil"; "adam.yost@navy.mil"; "soto.alaric@mail.mil"; "paul.richelmi@navy.mil"; "eva.lose@navy.mil"; "james.mckeeon@navy.mil"; "Meredith.werner@navy.mil"; "matthew.roush@navy.mil"; "Felecia.M.Ford@navy.mil"; "griffin.farris@navy.mil"; "andrew.m.barr.mil@mail.mil"; "dod.foia.pa@gmail.com"; "usarmy.jbsa.medcom.list.medcom-foia-users@mail.mil"; "usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil"; "osd.mc-alex.odcmo.mbx.foia-liaison@mail.mil"  
**Cc:** "John.P.Peterson.civ@mail.mil"; "Paul.D.Kercher.civ@mail.mil"; "Emily.D.Hall5.civ@mail.mil"; "Elizabeth.N.Arzola.civ@mail.mil"; "usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil"; "usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil"; "jefrey.w.timby.mil@mail.mil"; "timothy.s.sloan.mil@mail.mil"; "Antonio.R.Blount.civ@mail.mil"; "Patti.e.myers.civ@mail.mil"; "Abuoh.e.neuville.mil@mail.mil"; "usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil"; "FOIA"; "melvinv@gao.gov"; "mctiquej@gao.gov"; "alina.semo@nara.gov"; "ogis@nara.gov"  
**Bcc:** REDACTED  
**Subject:** Preemptive Reply to DOD/Navv FW: Still interested letters + DOD/Navv Massive False FOIA Reporting  
**Date:** Friday, June 17, 2022 12:58:00 PM  
**Attachments:** [Hammond Ser 14-245 signed.pdf](#)  
[DOJ FOIA REQUESTS AND APPEALS. STILL-INTERESTED PREEMPTIVE REPLY. .msg](#)  
[Hammond FOIAs - Still Interested is enduring for my requests.msg](#)  
[FW FOIA - Still Interested is enduring for my requests.msg](#)  
[FW FOIA - Still Interested is enduring for my requests.msg](#)  
[FW FOIA - Still Interested is enduring for my requests.msg](#)  
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[FW FOIA - Still Interested is enduring for my requests.msg](#)  
[RE FOIA - Still Interested is enduring for my requests.msg](#)  
[FW FOIA - Still Interested is enduring for my requests.msg](#)  
[FW FOIA - Still Interested is enduring for my requests.msg](#)  
[Fwd FOIA - Still Interested is enduring for my requests.msg](#)  
**Importance:** High

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Joo Chung (DOD Chief FOIA Officer), Mr. Julka (Navy FOIA Public Liaison), DONFOIA-PA, Robin Patterson, Joe Davidge, (DHA FOIA Public Liaison), Bobby Talebian (DOJ), Ms. Semo NARA OGIS), et al:

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Nevertheless, I am reiterating, as cited in the 11 attached still interested preemptive replies:

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ANY referral or transfer of any of my FOIA requests/appeals must include my still interested preemptive reply.

**ACTION FOA ALL ADDRESSEES.**

1. **All.** Append this preemptive still interested reply to all requests and appeals received from me, Robert Hammond, [perseverance2013@aol.com](mailto:perseverance2013@aol.com).
2. **DOD Chief FOIA Officer.** review and amend your FOIA raw data dating back to 2013 where there are massive numbers of FOIA requests and appeals still open that are not being reported as such. Initiate administrative reviews.
3. **DOJ** conduct independent audits of all DOD annual FOIA reports to raw data and electronic FOIA portals (e.g., FOIAonline) against raw data from 2013 forward or get GAO to do it for you. DOD’s FOIA reporting is massively false. Please address at the June 29, 2022 FOIA Open Meeting your efforts to date to address massive FALSE FOIA Reporting. Please address the case numbers cited herein.
4. **NARA Office of Government Information Services**, at the upcoming June 29, 2022 FOIA Open Meeting, OGIS will be addressing it’s Freedom of Information Act Ombudsman 2022 Report for Fiscal Year 2021. “The Freedom of Information Act (FOIA) mandates that the Office of Government Information Services (OGIS) review agency FOIA policies, procedures and **compliance**, 5 U.S.C. §§ 552 (h)(2)(A) and 552 (h)(2)(B).” I have provided OGIS countless examples of massive False FOAI Reporting, including DOD and NARA. Please discuss at the meeting your efforts to date (if any) to address this.

With my deep respect,

Robert Hammond  
Whistleblower

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**From:** no-reply@foiaonline.gov <no-reply@foiaonline.gov>  
**Sent:** Friday, June 17, 2022 7:53 AM  
**To:** perseverance2013@aol.com  
**Subject:** Still interested letter

Still interested letter

DEPARTMENT OF THE NAVY  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:

5720

Ser 14/245

June 16, 2022

SENT VIA FOIA ONLINE, DOD SAFE, AND U.S. MAIL

Mr. Robert Hammond

REDACTED

E-mail: [perseverance2013@aol.com](mailto:perseverance2013@aol.com)

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUESTS DON-NAVY-2019-000004, DON-NAVY-2018-011918, DON-NAVY-2018-002619, DON-NAVY-2018-002156, DON-NAVY-2018-002630, DON-NAVY-2018-002663, DON-NAVY-2018-001684, DON-NAVY-2018-002615, DON-NAVY-2019-002108, DON-NAVY-2019-002293, DON-NAVY-2019-002310, DON-NAVY-2019-002335, DON-NAVY-2018-011318, DON-NAVY-2019-002401, DON-NAVY-2018-011904, DON-NAVY-2021-000407; FOIA APPEALS DON-NAVY-2019-000581, DON-NAVY-2019-006137, DON-NAVY-2019-001380, DON-NAVY-2019-001389, DON-NAVY-2019-001391, DON-NAVY-2019-001392, DON-NAVY-2019-001515, DON-NAVY-2019-001518, DON-NAVY-2019-002112, DON-NAVY-2019-002294, DON-NAVY-2019-002311, DON-NAVY-2019-002336, DON-NAVY-2019-002341, DON-NAVY-2019-002402, DON-NAVY-2019-002977, DON-NAVY-2022-001294

This letter responds to your FOIA appeals submitted between November 1, 2018 and November 4, 2021, which were assigned tracking numbers referenced in the above subject line.

Your underlying requests, referenced in the above subject line, were submitted to the Secretary of the Navy/Chief of Naval Operations FOIA Office (DNS-36), the initial denial authority in fiscal years 2018-2021.

As of today, your appeals are still pending. I write to inquire as to whether you are still interested in your appeals being adjudicated by the Office of the Judge Advocate General, General Litigation Division (Code 14). If you are still interested, please inform Code 14 within 30 business days from the date of this letter by mail or via FOIA Online. If you choose to contact Code 14 by mail, please address your correspondence as follows:

Office of the Judge Advocate General – General Litigation Division

ATTN: FOIA APPEALS  
1322 Patterson Ave., Suite 3000  
Washington Navy Yard, D.C. 20374-5066

If Code 14 does not receive any response from you within 30 business days of the date of this letter, your appeal will be administratively closed with no further action taken.

Sincerely,

N. A. BOSIAK  
FOIA Appeals Branch Chief  
General Litigation Division

### **3. DOJ OIP Compliance Inquiry 22-J, FY 2021**

**False Reporting. DON-NAVY-2018-011904.**

**[one of ten submitted]**

**From:** [perseverance2013@aol.com](mailto:perseverance2013@aol.com)  
**To:** ["DOJ.OIP.FOIA \(SMO\)"; "OIP.ComplianceInquiry@usdoj.gov"; "bobak.Talebian@usdoj.gov"; "LINDSAY.Steel@doj.gov"](mailto:DOJ.OIP.FOIA(SMO)@usdoj.gov)  
**Cc:** ["Vanita.Gupta19@usdoj.gov"](mailto:Vanita.Gupta19@usdoj.gov)  
**Subject:** DOJ OIP Compliance Inquiry 22-J, FY 2021 False Reporting. DON-NAVY-2018-011904.  
**Date:** Friday, June 17, 2022 4:44:00 PM

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Mr. Talebian,

For many years I have been complaining about massive false FOIA reporting, which falls under DOJ OIP's area of responsibility. DOJ OIP has not done anything whatsoever.

Please promptly provide me the individualized DOJ OIP compliance inquiry case number for this matter. I am seeking a prompt yes or no answer in a reply letter in PDF format provided to me via return email. DO NOT COMBINE INDIVIDUAL COMPLIANCE INQUIRIES. EACH IS A SEPARATE ALLEGATION.

Please also cite my personal DOJ OIP tracking number and return a copy of my complaint with your closure letter.

I am also seeking that you provide a copy of such closure letter to:

1. DOD's Chief FOIA Officer, Joo Chung, 'joo.y.chung2.civ@mail.mil'
2. Mr. Aaron Weis  
SECNAV DON CIO  
1000 Navy Pentagon  
Washington, DC 20350-1000
3. [DONFOIA-PA@navy.mil](mailto:DONFOIA-PA@navy.mil)
4. Robin Patterson, Head, DONFOIA-PA [robin.patterson@navy.mil](mailto:robin.patterson@navy.mil)
5. Nathan Bosiak, Department of Navy Judge Advocate General (DON JAG), General Litigation Division [nathaniel.a.bosiak.mil@us.navy.mil](mailto:nathaniel.a.bosiak.mil@us.navy.mil)
6. Navy FOIA Public Liaison [Christopher.a.julka@navy.mil](mailto:Christopher.a.julka@navy.mil)

**ALLEGATION, DOJ OIP Compliance Inquiry 22-J, FY 2021 False Reporting. DON-NAVY-2018-011904.**

Department of the Navy has engaged false FOIA reporting by failing to report in its FY 2021 FOIA report and raw data the FOIA request **DON-NAVY-2018-011904**. This is the extent of this single DOJ OIP FOIA compliance inquiry requiring a yes or no response. The FOIA request is not listed in DOD's FY 2021 FOIA raw data.

<https://open.defense.gov/Transparency/FOIA/DoD-Annual-Reports-to-AG/> .

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**BACKGRLOUD.**

Nathan Bosiak, knowing that this FOIA request is open in FOIA online and purportedly being responsible for DON JAG annual FOIA reporting through the chain of command to DONFOIA -PA to DOD, improperly sent me a "still interested" inquiry, notwithstanding my multiple preemptive replies to still inquiries stating:

**STILL-INTERESTED PREEMPTIVE REPLY.** This is a preemptive reply to the Justice Department guidelines the procedure known as a "still interested" inquiry, through which a FOIA officer can confirm that the requester has not lost interest in obtaining the documents.

My interest in all FOIA requests submitted to your office is enduring, meaning that my interest in seeking replies to all past and future FOIA requests remains in effect until each request has been answered fully and the time for judicial review has passed. Please do not initiate any "still interested" inquiries. This serves as my notice of enduring interest and automatic reply to any future questions of interest by your office. There are no reasonable grounds to ever conclude in the future that I am not interested in this request.

ANY referral or transfer of any of my FOIA requests/appeals must include my still interested preemptive reply.

Please provide a response prior to the upcoming June 29, 2022 FOIA Open Meeting where this matter will be addressed. I am prepared to ultimately introduce more than 1,000 FOIA compliance inquiries documenting instances of known false FOIA reporting and other violations of law, regulations, and policy.

With my deep respect,

Robert Hammond

**Enclosure 1**  
**FOIA Request**



August 25, 2022

**Subject: Expedited FOIA Request DON 22-A.4. DOJ JAG Case Processing Records of OGIS Mediation Navy Still Interested Letters**

I am submitting this request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 et seq., as amended and the Privacy Act. If you deny all or any part of this request, please cite each specific exemption you think justifies your decision not to release the information under **both Acts** and notify me of appeal procedures available under the law.

References cited below apply.

**\*\*\*This Request will be timely for Judicial Review in twenty working days\*\*\***

**RECORDS SOUGHT VIA FOIA.**

**Expedited FOIA Request DON 22-A.4. DOJ JAG Case Processing Records of OGIS Mediation Navy Still Interested Letters. See Format. See PDF.**

I am respectfully seeking:

1. All records of any kind **in the possession of DON JAG** from August 2, 2022 10:15 AM to present related to my email “DOJ Compliance Inquiry, OGIS Mediation +RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting)” and contact with the Office of Government Information Services. See Attachment A.
2. Records would include, but not be limited to:
  - a. All emails.
  - b. All records of communication with and responses by NARA’s Office of Government Information Services, including, but not limited to ogis@nara.gov; alina.semo@nara.gov; debra.wall@nara.gov; 'NARA NGC General Counsel FOIA' <foia@nara.gov>; alina.semo@nara.gov; 'Robert Hammond' <dod.foia.pa@gmail.com>; sheela.portonovo@nara.gov; teresa.brady@nara.gov; CHRISTA.Lemelin@nara.gov; daniel.levenson@nara.gov; kimberly.reed@nara.gov; carrie.mcguire@nara.gov; dwaine.bacon@nara.gov
  - c. All records of communication with and responses by Navy’s FOIA Public Liaison, Christopher Julka, Christopher.a.julka@navy.mil:
  - d. All internal Department of Navy Office of the Judge Advocate General (DON JAG) correspondence
  - e. Any communications by email, fax or in any other format between **DOJ JAG** any other entity, including DONFOIA-PA. Principals at DONFOIA-PA, whose information is in the public Domain, includes:  
Richard R. Strong

CNO/SECNAV  
Deputy Director, FOIA/Privacy  
Department of the Navy  
P-202-685-6546  
F-202-685-6580  
[Richard.r.strong@navy.mil](mailto:Richard.r.strong@navy.mil)

Robin. Patterson  
Head, SECNAV/CNO FOIA/PA Program Office (DNS-36).  
CNO Office of The Director, Navy Staff  
Organization and Management Division  
FOIA/PA Service Center 202 685-0412 [DONFOIA-PA@NAVY.MIL](mailto:DONFOIA-PA@NAVY.MIL)

Joshua Portner  
SECNAV/CNO FOIA Requester Service Center (DNS-36)  
Contractor Support  
(202) 685-6517  
[joshua.portner.ctr@navy.mil](mailto:joshua.portner.ctr@navy.mil)

- f. All records of communication with the Office of DOD's Chief FOIA Officer, Joo Chung and her staff.
3. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional.

### **REQUESTED FORMAT.**

I am also seeking records in their native format (MS. Outlook, PowerPoint, Excel, ADA accessible PDF files by return email with: (1) a signed and dated cover letter (citing my personally assigned requester control number); (2) with record page count for all records released records (3) a copy of this request in your reply. I seek records via email in PDF format with an imbedded copy of my requests to (1) impede the agency from not addressing the FOIA Request; (2) impede the Agency from not providing the documents stated in the Agency's letter reply, and (3) make it obvious in any subsequent review what the Agency has or has not done.

Further, I request that these records be sent in any digital formats in which they exist (such as PDF and Excel). Under the terms of the E-FOIA Amendments of 1996, Section 5, if a document exists in electronic format, it must be released in that format upon request.

Each record must be provided as a distinct record in their native format. Emails should be provided as MS Outlook files, if not encrypted or otherwise unable to be opened by me. Only if this is not possible,

emails should be produced with their embedded hyperlinked attachments by using the “File => Save as Adobe PDF” command within Outlook or by other software that produces the same result.

I am also seeking the “**Description Available to the Public**” field I FOIAonline be set to yes and that all records be released to and viewable in the application by the general Public. The release type must be set to “**Unredacted – Releasable to the General Public: Will be available to the general public,**” or to “**Redacted – Releasable to the General Public: Will be available to the general public.**”

This request is distinctly separate from any other. Please do not combine this request with any other request in your reply. I am requesting that each element of the records sought be specifically addressed in the reply.

In all correspondence, return a copy of my FOIA request, cite my personal request number and cite records sought.

**FEE WAIVER/ PUBLIC INTEREST/PUBLIC RELEASE.** Notwithstanding my agreement to pay fees below if my fee waiver is denied, I am seeking a fee waiver due to significant public interest in this information. The subject of the requested records concerns "the operations or activities of the government." The disclosure is "likely to contribute" to an understanding of government operations or activities. There is no commercial interest. There is significant public interest.

### **AGREEMENT TO PAY FEES.**

I agree to pay fees for searching or copying the records up to \$25. If the fees exceed this amount please advise me of the cost before proceeding. I do not believe that there should be any charge for providing these records, as there is public interest in government operations. I am a private individual not seeking documents for commercial use, such that the following applies: “No fees may be charged by any DoD Component if the costs of routine collection and processing of the fee are likely to equal or exceed the amount of the fee. With the exception of requesters seeking documents for a commercial use, Components shall provide the first two hours of search time, and the first one hundred pages of duplication without charge.” I would note that because I am requesting an electronic file, there should not be a per page copy fee. The OMB Guidelines direct that searches for responsive records should be done in the "most efficient and least expensive manner." See OMB Fee Guidelines, 52 Fed. Reg. at 10,017. As an “all others” requester, I may only be assessed search and duplication fees and not fees for review. See 32 CFR 286.12 - Schedule of fees. Also, please note that, should payment become necessary, the Coinage Act of 1965, specifically Section 31 U.S.C. 5103, entitled "Legal tender," states: " United States coins and currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) are legal tender for all debts, public charges, taxes, and dues. Foreign gold or silver coins are not legal tender for debts.

(Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 980 ; Pub. L. 97–452, §1(19), Jan. 12, 1983, 96 Stat. 2477 .)

### **EXPEDITED PROCESSING.**

1. Failure to obtain the records on an expedited basis could reasonably be expected to result in an imminent loss of substantial due process rights related to the FOIA requests cited in the “still interested” inquiries.
2. The subject is of widespread and exceptional media interest and the information sought involves possible questions about the government's integrity that affect public confidence.
  - a. As DOD knows, while I am an “other requester” I am an individual engaged in disseminating information in order to inform the public concerning actual or alleged federal government activity. Information is urgently needed for that purpose
  - b. I prepare extended Public Comment for open FOIA meetings and regularly communicate with other open government entities and interested parties.
  - c. Errant FOIA reporting and other matters of public interest are at issue.

### **DOD POLICY – PUBLIC TRUST.**

Reference (c) states, “DoD personnel are expected to comply with the FOIA, this Regulation, and DoD FOIA policy in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust.”

### **ESTIMATED COMPLETION DATES**

Provide me the initial estimated completion date (ESD) for this matter along with contemporaneous adjusted ESDs as they change. See **Office of Government Information Services Advisory Opinion No. 2020-01: Agencies Must Provide Estimated Dates of Completion Upon Request** <https://www.archives.gov/ogis/advisory-opinions/2020-01-agencies-must-provide-edcs>

**STILL-INTERESTED PREEMPTIVE REPLY.** This is a preemptive reply to the Justice Department guidelines the procedure known as a “still interested” inquiry, through which a FOIA officer can confirm that the requester has not lost interest in obtaining the documents.

My interest in all FOIA requests and appeals submitted to your office is enduring, meaning that my interest in seeking replies to all past and future FOIA request remains in effect until each request has been answered fully and the time for judicial review has

passed. Please do not initiate any "still interested" inquiries. This serves as my notice of enduring interest and automatic reply to any future questions of interest by your office. There are no reasonable grounds to ever conclude in the future that I am not interested in this request.

#### Implementation Checklist for DOJ OIP Guidance on "Still-Interested" Inquiries

1. Ensure there are reasonable grounds to make a "still-interested" inquiry in first instance.
2. Absent good cause, do not make multiple "still-interested" inquiries.
3. Use requester's preferred method of communication and in the absence of a preference, communicate by telephone or email as the default.
4. Memorialize any decision by a requester to withdraw a request that is conveyed by telephone by sending the requester a brief email or letter noting the withdrawal.
5. Provide requesters no less than thirty (30) working days to respond to the "still-interested" inquiry and ensure that there is a simple way to do so.
6. Advise the requester that if they elect not to respond to the inquiry, the request will be administratively closed at the conclusion of the designated time period (which must be at least 30 working days).
7. Prior to administratively closing a request based upon the lack of a response by the requester, make good faith efforts to reach out to the requester using multiple methods of communication.
8. In the event a requester responds to the "still-interested" inquiry within a reasonable time after the deadline has passed, reopen the request and place it back into the processing queue where it would have been.

#### **PRESERVE RECORDS AND SEARCHES FOR JUDICIAL REVIEW.**

Please search for, locate and preserve all responsive or potentially responsive records and records of your searches in your FOIA case file until the statutory date for judicial review has passed (should that be necessary) or in accordance with a NARA approved records schedule, if longer. NARA GRS 4.2 requires that FOIA and Privacy Act case files be retained for 6 years after final agency action or 3 years after final adjudication by the courts, whichever is later. Records of responsive searches would include but not be limited to: searches conducted for each specific record sought and all other records known to the Agency, including dates, manner of searching, responsible agent or employee conducting each search and the results thereof. Such persons determining the locations of responsive records must be inclusive of persons who would know such locations and their identities and manner of determining search locations must be preserved.

In any subsequent proceedings, I may seek sworn declarations and a court order appointing a special counsel, as appropriate. Similarly, I may pursue additional venues.

Any deletion of potentially responsive records by any party having knowledge of this Request may be a violation of law. In as much as applicable staff and leadership have knowledge of my subject request, the Agency must search for, locate and preserve all responsive or potentially responsive records and records of searches in their FOIA case file, and leadership must ensure that this is done. Failing to do so and allowing records to be deleted IAW any other records management schedule may be a violation of law.

**ELECTRONIC RECORDS PRESERVATION.**

The Agency must preserve all electronically stored information, copies and backup, as defined by Rule 34 of the Federal Rules of Civil Procedure, along with any paper files which the Agency maintains, relevant to this action I am seeking electronic data in the Agency’s custody and control that is relevant to this action, including without limitation emails, along with metadata, and other information contained on Agency computer systems and any electronic storage systems. I consider this electronic data and paper files to be valuable and irreplaceable sources of discoverable information in this matter. No procedures should have been implemented to alter any active, deleted or fragmented data. Moreover, no electronic data should have been disposed of or destroyed. (ETL Institute for Advancement of America’s Legal System).

Further, to properly fulfill your preservation obligation, stop all scheduled data destruction, electronic shredding, rotation of backup tapes, and the sale, gift or destruction of hardware. Notify all individuals and of the need and duty to take the necessary affirmatives steps to comply with the duty to preserve evidence. (2008 Thomson Delmar Learning).

The Agency’s Director of Information Operations or similar organization must initiate procedures to preserve electronic records.

**APPLICABLE RETENTION SCHEDULE, NARA GRS 4.2 Item 20**

020	<p><b>Access and disclosure request files.</b> Case files created in response to requests for information under the Freedom of Information Act (FOIA), Mandatory Declassification Review (MDR) process, Privacy Act (PA), Classification Challenge, and similar access programs, and completed by: • granting the request in full • granting the request in part • denying the request for any reason including: o inability to fulfill request because records do not exist o inability to fulfill request because request inadequately describes records o inability to fulfill request because search or reproduction fees are not paid</p>	<p><b>Temporary.</b>            Destroy 6 years after final agency action or 3 years after final adjudication by the courts, whichever is later, but longer retention is authorized if required for business use.</p>	<p>DAA-GRS-2016-0002-0001</p>
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## **ALTERATION/DESTRUCTION OF RECORDS**

### **18 U.S. CODE § 1519 - DESTRUCTION, ALTERATION, OR FALSIFICATION OF RECORDS.**

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both. 18 U.S. Code § 1519 - Destruction, alteration, or falsification of records. (Added Pub. L. 107–204, title VIII, §802(a), July 30, 2002, 116 Stat. 800.).

**18 U.S.C. 641 and 2071.** The penalties for the unlawful or accidental removal, defacing, alteration, or destruction of Federal records or the attempt to do so, include a fine, imprisonment, or both (18 U.S.C. 641 and 2071).

### **36 CFR § 1230 UNLAWFUL OR ACCIDENTAL REMOVAL, DEFACING, ALTERATION, OR DESTRUCTION OF RECORDS**

#### **§1230.3**

*Unlawful or accidental destruction (also called unauthorized destruction)* means disposal of an unscheduled or permanent record; disposal prior to the end of the NARA-approved retention period of a temporary record (other than court-ordered disposal under §1226.14(d) of this subchapter); and disposal of a record subject to a **FOIA request**, litigation hold, or any other hold requirement to retain the records.

### **32 CFR PART 286—DOD FREEDOM OF INFORMATION ACT (FOIA) PROGRAM**

#### **32 CFR §286.6 Preservation of records.**

Each DoD Component shall preserve all correspondence pertaining to the requests that it receives under this part, as well as copies of all requested records, until disposition or destruction is authorized pursuant to title 44 of the United States Code or the General Records Schedule 4.2 of the National Archives and Records Administration (NARA). Records shall not be disposed of or destroyed while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

#### **36 CFR § 1230.3**

*Unlawful or accidental destruction (also called unauthorized destruction)* means disposal of an unscheduled or permanent record; disposal prior to the end of the [NARA](#)-approved

retention period of a temporary record (other than court-ordered disposal under § 1226.14(d) of this subchapter); and disposal of a record subject to a **FOIA request**, litigation hold, or any other hold requirement to retain the records.

## **RECORDS**

### **(a) FEDERAL AGENCY NOTIFICATION.—**

The head of each Federal agency shall notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, corruption, deletion, erasure, or other destruction of records in the custody of the agency, and with the assistance of the Archivist shall initiate action through the Attorney General for the recovery of records the head of the Federal agency knows or has reason to believe have been unlawfully removed from that agency, or from another Federal agency whose records have been transferred to the legal custody of that Federal agency.

### **(b) ARCHIVIST NOTIFICATION.—**

In any case in which the head of a Federal agency does not initiate an action for such recovery or other redress within a reasonable period of time after being notified of any such unlawful action described in subsection (a), or is participating in, or believed to be participating in any such unlawful action, the Archivist shall request the Attorney General to initiate such an action, and shall notify the Congress when such a request has been made.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1298; Pub. L. 98–497, title I, § 107(b)(21), title II, § 203(b), Oct. 19, 1984, 98 Stat. 2290, 2294; Pub. L. 113–187, § 4, Nov. 26, 2014, 128 Stat. 2009)

## **IMPROPERLY WITHHOLDING RECORDS**

Pursuant to FOIA:

“Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Special Counsel shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Special Counsel, after investigation and consideration of the evidence submitted, shall submit his findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Special Counsel recommends.” 5 U.S.C. § 552(a)(4)(F)(i).



## PERJURY

Whoever-

(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under [section 1746 of title 28, United States Code](#), willfully subscribes as true any material matter which he does not believe to be true;

is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

18 U.S. C. § 1621 - Perjury generally (June 25, 1948, ch. 645, 62 Stat. 773; Pub. L. 88-619, §1, Oct. 3, 1964, 78 Stat. 995 ; Pub. L. 94-550, §2, Oct. 18, 1976, 90 Stat. 2534 ; Pub. L. 103-322, title XXXIII, §330016(1)(I), Sept. 13, 1994, 108 Stat. 2147.

## SUBORDINATION OF PERJURY

The term *subornation of perjury* further describes the circumstance wherein an [attorney at law](#) causes a client to lie under oath or allows another party to lie under oath

Title [18 U.S.C. § 1622](#) provides:

Whoever procures another to commit any perjury is guilty of subornation of perjury, and shall be fined under this title or imprisoned not more than five years, or both.

## FALSE OFFICIAL STATEMENTS.

18 U.S.C. § 1001. Statements or entries generally:

- a. Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully --
  1. falsifies, **conceals**, or covers up by any trick, scheme, or device a **material fact**;
  2. makes any materially false, fictitious, or fraudulent statement or representation;or

3. makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title or imprisoned not more than 5 years, or both.

10 U.S. Code § 907. Art. 107. False official statements; false swearing:

(a) FALSE OFFICIAL STATEMENTS. Any person subject to this chapter who, with intent to deceive—

- (1) signs any false [record](#), return, regulation, order, or other official document, knowing it to be false; or
- (2) makes any other false official statement knowing it to be false;

shall be punished as a [court](#)-martial may direct.”

## **LEGAL FRAMEWORK OF FOIA**

1. The definition of “records” includes:

“[A]ll books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made *or received* by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them.” 44 U.S.C. § 3301 (emphasis supplied).

2. FOIA requires that “each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person” 5 U.S.C. § 552(a)(3)(A).

3. FOIA requires that “each agency shall establish a system to assign an individualized tracking number for each request received that will take longer than ten days to process and provide to each person making a request the tracking number assigned to the request” 5 U.S.C. § 522(a)(7)(A).

4. FOIA requires that each agency shall “establish a telephone line or Internet service that provides information about the status of a request to the person making the request using the assigned tracking number, including the date on which the agency originally received the request; and an estimated date on which the agency will complete action on the request. 5 U.S.C. § 522(a)(7)(B).

5. FOIA also requires federal agencies to make a final determination on FOIA administrative appeals that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal, unless the agency expressly provides notice to the requester of “unusual circumstances” meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(ii).

6. FOIA expressly provides that a person shall be deemed to have constructively exhausted their administrative remedies if the agency fails to comply

with the applicable time limitations provided by 5 U.S.C. § 552(a)(6)(A)(I) - (ii). *See also* 5 U.S.C. § 552(a)(6)(C).

7. FOIA provides that any person who has not been provided the records requested pursuant to FOIA, after exhausting their administrative remedies, may seek legal redress from the Federal District Court to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.

8. Regarding the names of the FOIA requesters, the courts have held that under the FOIA requesters do not have an expectation of privacy. *Stauss v. IRS*, 516 F. Supp. 1218, 1223 (D.D.C. 1981),

9. Under FOIA, the federal agency has the burden of sustaining its actions. 5 U.S.C. § 552(a)(4)(B).

10. Pursuant to FOIA, a Court may assess attorney fees and litigation costs against the United States if the Plaintiff prevails in an action thereunder. 5 U.S.C. § 552(a)(4)(E).

11. Department of Justice (DOJ) has issued a handbook addressing FOIA Annual Reports. *See DOJ, Handbook for Agency Annual Freedom of Information Act Reports*, “Disposition of FOIA Requests,” (available at [http://www.justice.gov/sites/default/files/oip/pages/attachments/2014/11/04/department\\_of\\_justice\\_handbook\\_for\\_agency\\_annual\\_freedom\\_of\\_information\\_act\\_reports.pdf](http://www.justice.gov/sites/default/files/oip/pages/attachments/2014/11/04/department_of_justice_handbook_for_agency_annual_freedom_of_information_act_reports.pdf)) (“DOJ Handbook”).

12. Among other things, the DOJ Handbook states, “All requests (perfected and non-perfected), appeals, and consultations that were pending at any time during the relevant fiscal year [October 1st through September 30th] will be captured.”

13. The DOJ Handbook also states:

“[E]ach agency is ultimately responsible for the accuracy and completeness of its Annual FOIA Report. It is therefore essential for agencies to take steps that will ensure that they are adequately tracking all of the information necessary to complete the Annual FOIA Report sections detailed below. Agencies that utilize a tracking or case management system for this purpose are responsible for ensuring that the system they are using can produce an accurate Annual FOIA Report that is in compliance with the law and Department of Justice guidance.” DOJ Handbook, at 3.

I believe that I have adequately described the records that I am seeking. If you believe that my request is unclear, if you have any questions, or if there is anything else that you need from me to complete this request in a timely manner, please contact me in writing, so that I may perfect my request. If you deem that any portion of my request is unclear, answer the remaining portions and I will perfect a request for additional material as needed.

Thank you very much in advance.

With my respect,

Page **11** of **13**

/s/

Robert Hammond  
Requester  
Whistleblower

References:

- (a) The Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, as amended,
- (b) Joint publication of U.S. Department of Justice, Executive Office of the President and U.S. General Services Administration of July 2011, “Your Right to Federal Records”
- (c) The Privacy Act (“PA”) of 1974, 5 U.S.C. § 552a, *et seq.*, as amended
- (d) DoD 5400.11-R, May 14, 2007, Department of Defense Privacy Program
- (e) DoD 5400.7-R, September 1998, DoD Freedom of Information Act (FOIA) Program
- (f) DoD 6025.18-R, Jan. 24, 2003, DoD Health Information Privacy Regulation
- (g) GAO Report GAO-12-828 of July 2012, subject Freedom of Information Act
- (h) Department of Justice Handbook for Agency Annual Freedom of Information Act Reports
- (i) (b) Administrative Instruction 106, “Alternative Dispute Resolution (ADR) Program,” January 30, 2014
- (j) DoD Directive 5145.01, “General Counsel of the Department of Defense (GC DoD),” December 2, 2013, as amended
- (k) DoD Directive 5145.04, “Defense Legal Services Agency (DLSA),” April 16, 2012
- (l) (f) DoD Directive 5400.11, “DoD Privacy Program,” October 29, 2014
- (m) DoD Manual 8910.01, Volume 1, “DoD Information Collections Manual: Procedures for DoD Internal Information Collections,” June 30, 2014
- (n) Executive Order 12988, “Civil Justice Reform,” February 5, 1996
- (o) Public Law 101-552, “Administrative Dispute Resolution Act,” November 15, 1990
- (p) Public Law 104–320, “Administrative Dispute Resolution Act of 1996,” October 19, 1996
- (q) Presidential Memorandum for Heads of Executive Departments and Agencies, “Designation of Interagency Committees to Facilitate and Encourage Agency Use of Alternate Means of Dispute Resolution and Negotiated Rulemaking,” May 1, 1998
- (r) United States Code, Title 5
- (s) DoD Instruction 5145.05, “Alternative Dispute Resolution (ADR) and Conflict Management”
- (t) Alternate Dispute Resolution Handbook ([opm.gov/policy-data-oversight/employee-relations/employee-rights-appeals/alternative-dispute-resolution/handbook.pdf](http://opm.gov/policy-data-oversight/employee-relations/employee-rights-appeals/alternative-dispute-resolution/handbook.pdf))

(u) President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines ([justice.gov/sites/default/files/oip/legacy/2014/07/23/foia-memorandum.pdf](http://justice.gov/sites/default/files/oip/legacy/2014/07/23/foia-memorandum.pdf))

## Attachment A

**From:** [foiacompliance@gmail.com](mailto:foiacompliance@gmail.com)  
**To:** [perseverance2013@aol.com](mailto:perseverance2013@aol.com); [donfoia-pa@navy.mil](mailto:donfoia-pa@navy.mil); [robin.patterson@navy.mil](mailto:robin.patterson@navy.mil); [christopher.a.julka@navy.mil](mailto:christopher.a.julka@navy.mil); [wendy.winston@navy.mil](mailto:wendy.winston@navy.mil); [nathaniel.a.boslak.mil@us.navy.mil](mailto:nathaniel.a.boslak.mil@us.navy.mil); [DHA.FOIA@mail.mil](mailto:DHA.FOIA@mail.mil); [joo.y.chung2.civ@mail.mil](mailto:joo.y.chung2.civ@mail.mil); [OIP.ComplianceInquiry@usdoj.gov](mailto:OIP.ComplianceInquiry@usdoj.gov); [bobak.Talebian@usdoj.gov](mailto:bobak.Talebian@usdoj.gov); [DHA.FOIA@mail.mil](mailto:DHA.FOIA@mail.mil); [dha.ncr.pcl.mbx.foia-requests@mail.mil](mailto:dha.ncr.pcl.mbx.foia-requests@mail.mil); [dha.bethesa.ncr.medical.mbx.wrm-hipaa-mail@mail.mil](mailto:dha.bethesa.ncr.medical.mbx.wrm-hipaa-mail@mail.mil); [ambler.jackson@aecom.com](mailto:ambler.jackson@aecom.com); [judy.j.bizzell.civ@mail.mil](mailto:judy.j.bizzell.civ@mail.mil); [joseph.e.davidge.civ@mail.mil](mailto:joseph.e.davidge.civ@mail.mil); [donfoia-pa@navy.mil](mailto:donfoia-pa@navy.mil); [grant.lattin@navy.mil](mailto:grant.lattin@navy.mil); [james.mckeeon@navy.mil](mailto:james.mckeeon@navy.mil); "Marye, Charles C CIV WHS ESD (USA)"; [ambler.jackson@aecom.com](mailto:ambler.jackson@aecom.com); [brenda.squires@navy.mil](mailto:brenda.squires@navy.mil); [della.garcia@med.navy.mil](mailto:della.garcia@med.navy.mil); [susan.reyes@navy.mil](mailto:susan.reyes@navy.mil); [heather.partridge@med.navy.mil](mailto:heather.partridge@med.navy.mil); [DONFOIA-PA@navy.mil](mailto:DONFOIA-PA@navy.mil); [Christopher.a.julka@navy.mil](mailto:Christopher.a.julka@navy.mil); [joshua.portner\\_ctr@navy.mil](mailto:joshua.portner_ctr@navy.mil); [mary.p.shaw@navy.mil](mailto:mary.p.shaw@navy.mil); [montant.johnson\\_ctr@navy.mil](mailto:montant.johnson_ctr@navy.mil); [Raymond.Hartwick\\_ctr@navy.mil](mailto:Raymond.Hartwick_ctr@navy.mil); [richard.r.strong@navy.mil](mailto:richard.r.strong@navy.mil); [robin.patterson@navy.mil](mailto:robin.patterson@navy.mil); [thomas.b.Modly.civ@mail.mil](mailto:thomas.b.Modly.civ@mail.mil); [raquel.c.bono.mil@mail.mil](mailto:raquel.c.bono.mil@mail.mil); [wendy.winston@navy.mil](mailto:wendy.winston@navy.mil); [grant.lattin@navy.mil](mailto:grant.lattin@navy.mil); [emilee.k.baldini@navy.mil](mailto:emilee.k.baldini@navy.mil); [kirk.foster@navy.mil](mailto:kirk.foster@navy.mil); [adam.inch@navy.mil](mailto:adam.inch@navy.mil); [adam.yost@navy.mil](mailto:adam.yost@navy.mil); [soto.alaric@mail.mil](mailto:soto.alaric@mail.mil); [paul.richelmi@navy.mil](mailto:paul.richelmi@navy.mil); [eva.lose@navy.mil](mailto:eva.lose@navy.mil); [james.mckeeon@navy.mil](mailto:james.mckeeon@navy.mil); [Meredith.werner@navy.mil](mailto:Meredith.werner@navy.mil); [matthew.roush@navy.mil](mailto:matthew.roush@navy.mil); [Felecia.M.Ford@navy.mil](mailto:Felecia.M.Ford@navy.mil); [griffin.farris@navy.mil](mailto:griffin.farris@navy.mil); [andrew.m.barr.mil@mail.mil](mailto:andrew.m.barr.mil@mail.mil); [dod.foia.pa@gmail.com](mailto:dod.foia.pa@gmail.com); [usarmy.jbsa.medcom.list.medcom.foia-users@mail.mil](mailto:usarmy.jbsa.medcom.list.medcom.foia-users@mail.mil); [usarmy.belvoir.hqda-aaa-ahs.mbx.rmda-foia-public-liaison@mail.mil](mailto:usarmy.belvoir.hqda-aaa-ahs.mbx.rmda-foia-public-liaison@mail.mil); [osd.mc-alex.odcmo.mbx.foia-liaison@mail.mil](mailto:osd.mc-alex.odcmo.mbx.foia-liaison@mail.mil)  
**Cc:** [John.P.Peterson.civ@mail.mil](mailto:John.P.Peterson.civ@mail.mil); [Paul.D.Kercher.civ@mail.mil](mailto:Paul.D.Kercher.civ@mail.mil); [Emily.D.Hall5.civ@mail.mil](mailto:Emily.D.Hall5.civ@mail.mil); [Elizabeth.N.Arzola.civ@mail.mil](mailto:Elizabeth.N.Arzola.civ@mail.mil); [usarmy.belvoir.hqda-aaa-ahs.mbx.rmda-foia-public-liaison@mail.mil](mailto:usarmy.belvoir.hqda-aaa-ahs.mbx.rmda-foia-public-liaison@mail.mil); [usarmy.belvoir.hqda-aaa-ahs.mbx.rmda-foia-public-liaison@mail.mil](mailto:usarmy.belvoir.hqda-aaa-ahs.mbx.rmda-foia-public-liaison@mail.mil); [usarmy.belvoir.hqda-aaa-ahs.mbx.rmda-foia-public-liaison@mail.mil](mailto:usarmy.belvoir.hqda-aaa-ahs.mbx.rmda-foia-public-liaison@mail.mil); [jefrey.w.timby.mil@mail.mil](mailto:jefrey.w.timby.mil@mail.mil); [timothy.s.sloan.mil@mail.mil](mailto:timothy.s.sloan.mil@mail.mil); [Antonio.R.Blount.civ@mail.mil](mailto:Antonio.R.Blount.civ@mail.mil); [Patti.e.myers.civ@mail.mil](mailto:Patti.e.myers.civ@mail.mil); [Abuoh.e.neuville.mil@mail.mil](mailto:Abuoh.e.neuville.mil@mail.mil); [usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil](mailto:usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil); "FOIA"; [melvinv@gao.gov](mailto:melvinv@gao.gov); [mctiguej@gao.gov](mailto:mctiguej@gao.gov); [alina.semo@nara.gov](mailto:alina.semo@nara.gov); [ogis@nara.gov](mailto:ogis@nara.gov); [OIP.ComplianceInquiry@usdoj.gov](mailto:OIP.ComplianceInquiry@usdoj.gov); [Vanita.Gupta19@usdoj.gov](mailto:Vanita.Gupta19@usdoj.gov); [garym.stern@nara.gov](mailto:garym.stern@nara.gov); "NARA NGC General Counsel FOIA"; [foiacompliance@gmail.com](mailto:foiacompliance@gmail.com); [hammondrobert1976@gmail.com](mailto:hammondrobert1976@gmail.com); [foiacompliance@gmail.com](mailto:foiacompliance@gmail.com)  
**Subject:** FW: DOJ Compliance Inquiry, OGIS Mediation +RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting  
**Date:** Wednesday, August 24, 2022 1:32:10 PM  
**Attachments:** [Still interested ltr \(302 KB\).msg](#)  
[DOD MASSIVE FALSE REPORTING PART II + Still Interested Abuse.pdf](#)  
[Correspondence only by Email. RE Preemptive Reply to DODNavy FW Still... \(1.10 MB\).msg](#)  
[Hammond FOIAs - Still Interested is enduring for my requests \(21.2 KB\).msg](#)  
[FW FOIA - Still Interested is enduring for my requests \(21.9 KB\).msg](#)  
[22-3417 Hammond Response \(002\).pdf](#)

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### **Summary.**

Navy waited four years to initiate still interested letters for appeals and requests, despite my numerous pre-emptive correspondences that my interests are enduring and the fact that there is no procedure for still interested inquiries to appeals. Navy is simply trying to close cases without having to report them in their annual FOIA reports on a massive scale.

Navy's preemptive letters do not comport with DOJ OIP guidelines.

Navy is engaged in massive false FOIA reporting with respect to specific case numbers that I identified and massively many more. This is a DOD problem.

Office of Government Information Services (OGIS) and DOJ Office of Information Policy (DOJ OIP) have not acted in accordance with law in addressing my mediation requests and compliance inquiries.

Audits are needed, not only with respect to the issues cited herein, but also to the adequacy of funding impacting mission performance of OGIS and DOJ OIP.

### **OGIS Actions.**

Ms. Wall, Ms. Semo,

By law OGIS cannot refuse mediation of DOD's massive abuse of still interested letters with my countless preemptive still interested correspondence dating back many

## Attachment A

years. OGIS must act on my request below that “I want mediation, not a reply from the agency FPL.”

OGIS must also address Navy’s massive incontrovertible False FOIA reporting. The FOIA statute requires that “The Office of Government Information Services shall— ... (B) review compliance with this section by administrative agencies.

Your attached correspondence 22-3417 Hammond Response letter improperly closed this case without addressing the issues: (1) Navy’s still interested inquires relating to appeals are improper as there is no procedure for that, (2) Navy’s still interested inquiries are improper in that I had preemptively and repeatedly stated my enduring interest prior to the inquiries, (3) Navy is involved in massive false FOIA reporting which OGIS must address.

This is particularly disturbing in that over a month ago I sent OGIS for posting to the Annual Open FOIA meeting my public comment, “DOD MASSIVE FALSE REPORTING PART II + Still Interested Abuse. Updated July 27, 2022” outlining these same issues. OGIS/DOJ OIP have not posted that presentation and Navy continued its massive abuse of still interested letters and False FOIA reporting. *See* <https://www.documentcloud.org/app?q=%2Buser%3Arobert-hammond-106693%20>. See also “Failure - FOIA Compliance Oversight & Funding. Part 2. No Joking Matter.”

### ACTION.

1. Immediately open individual mediation cases, per my request below, directly with DON JAG, not the Agency FPL. There is no such thing as “USN FOIA office” cited in your letter; OGIS is attempting to obfuscate that you did not engage with DON JAG, but rather with the Agency FPL, which is a distinct, separate, non-exclusive right from OGIS. OGIS cannot refuse mediation. If Navy refuses to engage in mediation, OGIS must so state in any subsequent closure letter and in annual Ombuds reports.
2. Immediately address Navy’s incontrovertible False FOIA reporting and include your findings/action in a subsequent closure letter.
3. Issue proper closure letters to each instance, with copies to the head of DON JAG, and the DON CIO, who is the Department of the Navy's Senior Military Component Official for the Freedom of Information Act (FOIA).
4. I am today filing an expedited FOIA request seeking OGIS case processing records related to this mater – promptly reply.

### **DOJ OIP Actions.**

Ms. Gupta, Mr. Talebian:

1. Per below, please advise me of the individualized compliance inquiry case numbers to my complaints below and the status of those inquiries.
2. Address each instance of FALSE FOIA reporting.
3. Address impropriety of still interested inquiries applied to appeals.
4. Address Navy misconduct in issuing the still interested letters, which do not comport with DOJ OIP guidelines as to when they can be issued.

## Attachment A

5. Address OGIS misconduct cited above, which violates both law and DOJ OIP Policy.
6. Issue proper closure letters to each instance, with copies to the head of DON JAG, and the DON CIO, who is the Department of the Navy's Senior Military Component Official for the Freedom of Information Act (FOIA).

### GAO,

Please include these matters in any FOIA audits, including those relating to agency backlogs, Navy's malign tactic of reducing backlogs by closing them pursuant to still interested inquiries. Please examine the extent of the problem. For the agency to wait four years to inquire about open FOIA requests and appeals, that have apparently not been reported as open, is not only a procedural issue, but an ethical one as well.

With my deep respect,

Robert Hammond

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**From:** perseverance2013@aol.com <perseverance2013@aol.com>

**Sent:** Tuesday, August 2, 2022 10:15 AM

**To:** donfoia-pa@navy.mil; robin.patterson@navy.mil; christopher.a.julka@navy.mil; wendy.winston@navy.mil; nathaniel.a.bosiak.mil@us.navy.mil; DHA.FOIA@mail.mil; joo.y.chung2.civ@mail.mil; OIP.ComplianceInquiry@usdoj.gov; bobak.Talebian@usdoj.gov; DHA.FOIA@mail.mil; dha.ncr.pcl.mbx.foia-requests@mail.mil; dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil; ambler.jackson@aecom.com; judy.j.bizzell.civ@mail.mil; joseph.e.davidge.civ@mail.mil; donfoia-pa@navy.mil; grant.lattin@navy.mil; james.mckeeon@navy.mil; 'Marye, Charles C CIV WHS ESD (USA)' <charles.c.marye.civ@mail.mil>; ambler.jackson@aecom.com; brenda.squires@navy.mil; della.garcia@med.navy.mil; susan.reyes@navy.mil; heather.partridge@med.navy.mil; DONFOIA-PA@navy.mil; Christopher.a.julka@navy.mil; joshua.portner.ctr@navy.mil; mary.p.shaw@navy.mil; montant.johnson.ctr@navy.mil; Raymond.Hartwick.ctr@navy.mil; richard.r.strong@navy.mil; robin.patterson@navy.mil; thomas.b.Modly.civ@mail.mil; raquel.c.bono.mil@mail.mil; wendy.winston@navy.mil; grant.lattin@navy.mil; emilee.k.baldini@navy.mil; kirk.foster@navy.mil; adam.inch@navy.mil; adam.yost@navy.mil; soto.alaric@mail.mil; paul.richelmi@navy.mil; eva.lose@navy.mil; james.mckeeon@navy.mil; Meredith.werner@navy.mil; matthew.roush@navy.mil; Felecia.M.Ford@navy.mil; griffin.farris@navy.mil; andrew.m.barr.mil@mail.mil; dod.foia.pa@gmail.com; usarmy.jbsa.medcom.list.medcom-foia-users@mail.mil; usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil; osd.mc-alex.odcmo.mbx.foia-liaison@mail.mil

**Cc:** John.P.Peterson.civ@mail.mil; Paul.D.Kercher.civ@mail.mil; Emily.D.Hall5.civ@mail.mil; Elizabeth.N.Arzola.civ@mail.mil; usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil; usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia@mail.mil; usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil; jefrey.w.timby.mil@mail.mil; timothy.s.sloan.mil@mail.mil; Antonio.R.Blount.civ@mail.mil; Patti.e.myers.civ@mail.mil; Abuoh.e.neuville.mil@mail.mil; usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil; 'FOIA' <foia@nara.gov>; melvinv@gao.gov; mctiguej@gao.gov;



## Attachment A

alina.semo@nara.gov; ogis@nara.gov; OIP.ComplianceInquiry@usdoj.gov;  
Vanita.Gupta19@usdoj.gov

**Subject:** DOJ Compliance Inquiry, OGIS Mediation +RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting

Ms. Chung (DOD Chief FOIA Officer), et al.

Today, **August 2, 2022**, I received the attached email “still Interested It” from Department of Navy’s Office of Judge Advocate General (DON JAG) with an improper “still interested letter” letter dated **June 16, 2022** regarding scores of FOIA requests and appeals dating back to 2018.

1. There is no provision to question “still interested” with regard to an administrative appeal.
2. I answered this very same letter by email below.
3. I have provided countless preemptive replies to still interested inquiries.
4. Navy is engaged in massive false FOIA reporting and is attempting to close old cases without having to account for the processing time.
5. Navy’s continued still interested inquiries do not comport with DOJ guidelines and are therefore each a violation of the Administrative Procedures Act. See [OIP Releases New Guidance for Agency Still-Interested Inquiries | OIP | Department of Justice](https://www.justice.gov/oip/blog/oip-releases-new-guidance-agency-still-interested-inquiries)  
<https://www.justice.gov/oip/blog/oip-releases-new-guidance-agency-still-interested-inquiries>

DOJ/DOJ OIP,

Please open individual compliance inquiries regarding still interested abuse and false FOIA reporting for the following FOIA requests and appeals cited in the attached June 16, 2022 letter:

FREEDOM OF INFORMATION ACT (FOIA) REQUESTS DON-NAVY-2019-000004, DON-NAVY-2018-011918, DON-NAVY-2018-002619, DON-NAVY-2018-002156, DON-NAVY-2018-002630, DON-NAVY-2018-002663, DON-NAVY-2018-001684, DON-NAVY-2018-002615, DON-NAVY-2019-002108, DON-NAVY-2019-002293, DON-NAVY-2019-002310, DON-NAVY-2019-002335, DON-NAVY-2018-011318, DON-NAVY-2019-002401, DON-NAVY-2018-011904, DON-NAVY-2021-000407; FOIA APPEALS DON-NAVY-2019-000581, DON-NAVY-2019-006137, DON-NAVY-2019-001380, DON-NAVY-2019-001389, DON-NAVY-2019-001391, DON-NAVY-2019-001392, DON-NAVY-2019-001515, DON-NAVY-2019-001518, DON-NAVY-2019-002112, DON-NAVY-2019-002294, DON-NAVY-2019-002311, DON-NAVY-2019-002336, DON-NAVY-2019-002341, DON-NAVY-2019-002402, DON-NAVY-2019-002977, DON-NAVY-2022-001294

Reissue guidance regarding still interested in queries.

Ms. Gupta, please allocate sufficient funding for DOJ OIP to accomplish its FOIA compliance

## Attachment A

mission. I plan to send OIP some 2,000 compliance inquiries near term.

OGIS,

Please open individual mediation cases for the above. I want mediation, not a reply from the agency FPL. This abuse continues and we must get to the bottom of it. Reissue guidance regarding still interested inquiries.

GAO,

Please include in any FOIA audits, including those relating to agency backlogs, Navy's malign tactic of reducing backlogs by closing them pursuant to still interested inquiries. Please examine the extent of the problem. For the agency to wait four years to inquire about open FOIA requests and appeals, that have apparently not been reported as open, is not only a procedural issue, but an ethical one as well.

While I want to work with DOD directly to resolve open matters, I cannot continue new abuse. This must stop.

With my deep respect,

Robert Hammond

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**From:** [perseverance2013@aol.com](mailto:perseverance2013@aol.com) [perseverance2013@aol.com](mailto:perseverance2013@aol.com)

**Sent:** Wednesday, July 27, 2022 4:42 PM

**To:** 'donfoia-pa@navy.mil' [donfoia-pa@navy.mil](mailto:donfoia-pa@navy.mil); 'robin.patterson@navy.mil' [robin.patterson@navy.mil](mailto:robin.patterson@navy.mil); 'christopher.a.julka@navy.mil' [christopher.a.julka@navy.mil](mailto:christopher.a.julka@navy.mil); 'wendy.winston@navy.mil' [wendy.winston@navy.mil](mailto:wendy.winston@navy.mil); 'nathaniel.a.bosiak.mil@us.navy.mil' [nathaniel.a.bosiak.mil@us.navy.mil](mailto:nathaniel.a.bosiak.mil@us.navy.mil); 'DHA.FOIA@mail.mil' [DHA.FOIA@mail.mil](mailto:DHA.FOIA@mail.mil); 'joo.y.chung2.civ@mail.mil' [joo.y.chung2.civ@mail.mil](mailto:joo.y.chung2.civ@mail.mil); 'OIP.ComplianceInquiry@usdoj.gov' [OIP.ComplianceInquiry@usdoj.gov](mailto:OIP.ComplianceInquiry@usdoj.gov); 'bobak.Talebian@usdoj.gov' [bobak.Talebian@usdoj.gov](mailto:bobak.Talebian@usdoj.gov); 'DHA.FOIA@mail.mil' [DHA.FOIA@mail.mil](mailto:DHA.FOIA@mail.mil); 'dha.ncr.pcl.mbx.foia-requests@mail.mil' [dha.ncr.pcl.mbx.foia-requests@mail.mil](mailto:dha.ncr.pcl.mbx.foia-requests@mail.mil); 'dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil' [dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil](mailto:dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil); 'ambler.jackson@aecom.com' [ambler.jackson@aecom.com](mailto:ambler.jackson@aecom.com); 'judy.j.bizzell.civ@mail.mil' [judy.j.bizzell.civ@mail.mil](mailto:judy.j.bizzell.civ@mail.mil); 'joseph.e.davidge.civ@mail.mil' [joseph.e.davidge.civ@mail.mil](mailto:joseph.e.davidge.civ@mail.mil); 'donfoia-pa@navy.mil' [donfoia-pa@navy.mil](mailto:donfoia-pa@navy.mil); 'grant.lattin@navy.mil' [grant.lattin@navy.mil](mailto:grant.lattin@navy.mil); 'james.mckeeon@navy.mil' [james.mckeeon@navy.mil](mailto:james.mckeeon@navy.mil); 'Marye, Charles C CIV WHS ESD (USA)' [charles.c.marye.civ@mail.mil](mailto:charles.c.marye.civ@mail.mil); 'ambler.jackson@aecom.com' [ambler.jackson@aecom.com](mailto:ambler.jackson@aecom.com); 'brenda.squires@navy.mil' [brenda.squires@navy.mil](mailto:brenda.squires@navy.mil); 'della.garcia@med.navy.mil' [della.garcia@med.navy.mil](mailto:della.garcia@med.navy.mil); 'susan.reyes@navy.mil' [susan.reyes@navy.mil](mailto:susan.reyes@navy.mil); 'heather.partridge@med.navy.mil' [heather.partridge@med.navy.mil](mailto:heather.partridge@med.navy.mil); 'DONFOIA-PA@navy.mil' [DONFOIA-PA@navy.mil](mailto:DONFOIA-PA@navy.mil); 'Christopher.a.julka@navy.mil' [Christopher.a.julka@navy.mil](mailto:Christopher.a.julka@navy.mil); 'joshua.portner.ctr@navy.mil' [joshua.portner.ctr@navy.mil](mailto:joshua.portner.ctr@navy.mil); 'mary.p.shaw@navy.mil' [mary.p.shaw@navy.mil](mailto:mary.p.shaw@navy.mil); 'montant.johnson.ctr@navy.mil' [montant.johnson.ctr@navy.mil](mailto:montant.johnson.ctr@navy.mil); 'Raymond.Hartwick.ctr@navy.mil' [Raymond.Hartwick.ctr@navy.mil](mailto:Raymond.Hartwick.ctr@navy.mil); 'richard.r.strong@navy.mil' [richard.r.strong@navy.mil](mailto:richard.r.strong@navy.mil);

## Attachment A

'robin.patterson@navy.mil' [robin.patterson@navy.mil](mailto:robin.patterson@navy.mil); 'thomas.b.Modly.civ@mail.mil' [thomas.b.Modly.civ@mail.mil](mailto:thomas.b.Modly.civ@mail.mil); 'raquel.c.bono.mil@mail.mil' [raquel.c.bono.mil@mail.mil](mailto:raquel.c.bono.mil@mail.mil);  
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**Cc:** 'John.P.Peterson.civ@mail.mil' [John.P.Peterson.civ@mail.mil](mailto:John.P.Peterson.civ@mail.mil); 'Paul.D.Kercher.civ@mail.mil' [Paul.D.Kercher.civ@mail.mil](mailto:Paul.D.Kercher.civ@mail.mil);  
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'FOIA' [foia@nara.gov](mailto:foia@nara.gov); 'melvin@gao.gov' [melvin@gao.gov](mailto:melvin@gao.gov);  
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'ogis@nara.gov' [ogis@nara.gov](mailto:ogis@nara.gov)  
**Subject:** RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting

My still interested responses apply to all FOIA requests and appeals ever submitted.

Do not ask again.

Robert Hammond

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**From:** [perseverance2013@aol.com](mailto:perseverance2013@aol.com) <[perseverance2013@aol.com](mailto:perseverance2013@aol.com)>

**Sent:** Friday, June 17, 2022 12:58 PM

**To:** 'donfoia-pa@navy.mil' <[donfoia-pa@navy.mil](mailto:donfoia-pa@navy.mil)>; 'robin.patterson@navy.mil' <[robin.patterson@navy.mil](mailto:robin.patterson@navy.mil)>; 'christopher.a.julka@navy.mil' <[christopher.a.julka@navy.mil](mailto:christopher.a.julka@navy.mil)>; 'wendy.winston@navy.mil' <[wendy.winston@navy.mil](mailto:wendy.winston@navy.mil)>; 'nathaniel.a.bosiak.mil@us.navy.mil' <[nathaniel.a.bosiak.mil@us.navy.mil](mailto:nathaniel.a.bosiak.mil@us.navy.mil)>; 'DHA.FOIA@mail.mil' <[DHA.FOIA@mail.mil](mailto:DHA.FOIA@mail.mil)>;

## Attachment A

'joo.y.chung2.civ@mail.mil' <[joo.y.chung2.civ@mail.mil](mailto:joo.y.chung2.civ@mail.mil)>; 'OIP.ComplianceInquiry@usdoj.gov' <[OIP.ComplianceInquiry@usdoj.gov](mailto:OIP.ComplianceInquiry@usdoj.gov)>; 'bobak.Talebian@usdoj.gov' <[bobak.Talebian@usdoj.gov](mailto:bobak.Talebian@usdoj.gov)>; 'DHA.FOIA@mail.mil' <[DHA.FOIA@mail.mil](mailto:DHA.FOIA@mail.mil)>; 'dha.ncr.pcl.mbx.foia-requests@mail.mil' <[dha.ncr.pcl.mbx.foia-requests@mail.mil](mailto:dha.ncr.pcl.mbx.foia-requests@mail.mil)>; 'dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil' <[dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil](mailto:dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil)>; 'ambler.jackson@aecom.com' <[ambler.jackson@aecom.com](mailto:ambler.jackson@aecom.com)>; 'judy.j.bizzell.civ@mail.mil' <[judy.j.bizzell.civ@mail.mil](mailto:judy.j.bizzell.civ@mail.mil)>; 'joseph.e.davidge.civ@mail.mil' <[joseph.e.davidge.civ@mail.mil](mailto:joseph.e.davidge.civ@mail.mil)>; 'donfoia-pa@navy.mil' <[donfoia-pa@navy.mil](mailto:donfoia-pa@navy.mil)>; 'grant.lattin@navy.mil' <[grant.lattin@navy.mil](mailto:grant.lattin@navy.mil)>; 'james.mckeeon@navy.mil' <[james.mckeeon@navy.mil](mailto:james.mckeeon@navy.mil)>; 'Marye, Charles C CIV WHS ESD (USA)' <[charles.c.marye.civ@mail.mil](mailto:charles.c.marye.civ@mail.mil)>; 'ambler.jackson@aecom.com' <[ambler.jackson@aecom.com](mailto:ambler.jackson@aecom.com)>; 'brenda.squires@navy.mil' <[brenda.squires@navy.mil](mailto:brenda.squires@navy.mil)>; 'della.garcia@med.navy.mil' <[della.garcia@med.navy.mil](mailto:della.garcia@med.navy.mil)>; 'susan.reyes@navy.mil' <[susan.reyes@navy.mil](mailto:susan.reyes@navy.mil)>; 'heather.partridge@med.navy.mil' <[heather.partridge@med.navy.mil](mailto:heather.partridge@med.navy.mil)>; 'DONFOIA-PA@navy.mil' <[DONFOIA-PA@navy.mil](mailto:DONFOIA-PA@navy.mil)>; 'Christopher.a.julka@navy.mil' <[Christopher.a.julka@navy.mil](mailto:Christopher.a.julka@navy.mil)>; 'joshua.portner.ctr@navy.mil' <[joshua.portner.ctr@navy.mil](mailto:joshua.portner.ctr@navy.mil)>; 'mary.p.shaw@navy.mil' <[mary.p.shaw@navy.mil](mailto:mary.p.shaw@navy.mil)>; 'montant.johnson.ctr@navy.mil' <[montant.johnson.ctr@navy.mil](mailto:montant.johnson.ctr@navy.mil)>; 'Raymond.Hartwick.ctr@navy.mil' <[Raymond.Hartwick.ctr@navy.mil](mailto:Raymond.Hartwick.ctr@navy.mil)>; 'richard.r.strong@navy.mil' <[richard.r.strong@navy.mil](mailto:richard.r.strong@navy.mil)>; 'robin.patterson@navy.mil' <[robin.patterson@navy.mil](mailto:robin.patterson@navy.mil)>; 'thomas.b.Modly.civ@mail.mil' <[thomas.b.Modly.civ@mail.mil](mailto:thomas.b.Modly.civ@mail.mil)>; 'raquel.c.bono.mil@mail.mil' <[raquel.c.bono.mil@mail.mil](mailto:raquel.c.bono.mil@mail.mil)>; 'wendy.winston@navy.mil' <[wendy.winston@navy.mil](mailto:wendy.winston@navy.mil)>; 'grant.lattin@navy.mil' <[grant.lattin@navy.mil](mailto:grant.lattin@navy.mil)>; 'emilee.k.baldini@navy.mil' <[emilee.k.baldini@navy.mil](mailto:emilee.k.baldini@navy.mil)>; 'kirk.foster@navy.mil' <[kirk.foster@navy.mil](mailto:kirk.foster@navy.mil)>; 'adam.inch@navy.mil' <[adam.inch@navy.mil](mailto:adam.inch@navy.mil)>; 'adam.yost@navy.mil' <[adam.yost@navy.mil](mailto:adam.yost@navy.mil)>; 'soto.alaric@mail.mil' <[soto.alaric@mail.mil](mailto:soto.alaric@mail.mil)>; 'paul.richelmi@navy.mil' <[paul.richelmi@navy.mil](mailto:paul.richelmi@navy.mil)>; 'eva.lose@navy.mil' <[eva.lose@navy.mil](mailto:eva.lose@navy.mil)>; 'james.mckeeon@navy.mil' <[james.mckeeon@navy.mil](mailto:james.mckeeon@navy.mil)>; 'Meredith.werner@navy.mil' <[Meredith.werner@navy.mil](mailto:Meredith.werner@navy.mil)>; 'matthew.roush@navy.mil' <[matthew.roush@navy.mil](mailto:matthew.roush@navy.mil)>; 'Felecia.M.Ford@navy.mil' <[Felecia.M.Ford@navy.mil](mailto:Felecia.M.Ford@navy.mil)>; 'griffin.farris@navy.mil' <[griffin.farris@navy.mil](mailto:griffin.farris@navy.mil)>; 'andrew.m.barr.mil@mail.mil' <[andrew.m.barr.mil@mail.mil](mailto:andrew.m.barr.mil@mail.mil)>; 'dod.foia.pa@gmail.com' <[dod.foia.pa@gmail.com](mailto:dod.foia.pa@gmail.com)>; 'usarmy.jbsa.medcom.list.medcom-foia-users@mail.mil' <[usarmy.jbsa.medcom.list.medcom-foia-users@mail.mil](mailto:usarmy.jbsa.medcom.list.medcom-foia-users@mail.mil)>; 'usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil' <[usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil](mailto:usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil)>; 'osd.mc-alex.odcmo.mbx.foia-liaison@mail.mil' <[osd.mc-alex.odcmo.mbx.foia-liaison@mail.mil](mailto:osd.mc-alex.odcmo.mbx.foia-liaison@mail.mil)>  
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## Attachment A

<foia@nara.gov>; 'melvinv@gao.gov' <[melvinv@gao.gov](mailto:melvinv@gao.gov)>; 'mctiguej@gao.gov' <[mctiguej@gao.gov](mailto:mctiguej@gao.gov)>; 'alina.semo@nara.gov' <[alina.semo@nara.gov](mailto:alina.semo@nara.gov)>; 'ogis@nara.gov' <[ogis@nara.gov](mailto:ogis@nara.gov)>

**Subject:** Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting

**Importance:** High

Joo Chung (DOD Chief FOIA Officer), Mr. Julka (Navy FOIA Public Liaison), DONFOIA-PA, Robin Patterson, Joe Davidge, (DHA FOIA Public Liaison), Bobby Talebian (DOJ), Ms. Semo NARA OGIS), et al:

This responds to Navy's letter Ser 14-245 and five emails citing multiple FOIA requests and appeals regarding still interested inquiries of certain FOIA requests and appeals dating back to 2018.

**DOD MASSIVE FALSE FOIA REPORTING.** As I spot checked a few of the FOIA tracking numbers cited in Navy's letter Ser 14-245, which Navy cites as open and for which is seeking still interested replies, none are listed in DOD's FY 2021 FOIA raw data. <https://open.defense.gov/Transparency/FOIA/DoD-Annual-Reports-to-AG/> . This is a blatant attempt to cover-up false FOIA reporting, in my view. It will not stand. There may also be ethical and performance standards issues.

### **IMPROPER STILL INTERESTED INQUIRY**

First, there is no provision for a still interested inquiry to an appeal.

Nevertheless, I am reiterating, as cited in the 11 attached still interested preemptive replies:

**STILL-INTERESTED PREEMPTIVE REPLY.** This is a preemptive reply to the Justice Department guidelines the procedure known as a "still interested" inquiry, through which a FOIA officer can confirm that the requester has not lost interest in obtaining the documents.

My interest in all FOIA requests and appeals submitted to your office is enduring, meaning that my interest in seeking replies to all past and future FOIA requests and appeals remains in effect until each request has been answered fully and the time for judicial review has passed. Please do not initiate any "still interested" inquiries. This serves as my notice of enduring interest and automatic reply to any future questions of interest by your office. There are no reasonable grounds to ever conclude in the future that I am not interested in this request.

ANY referral or transfer of any of my FOIA requests/appeals must include my still interested preemptive reply.

### **ACTION FOA ALL ADDRESSEES.**

1. **All.** Append this preemptive still interested reply to all requests and appeals received from me, Robert Hammond, [perseverance2013@aol.com](mailto:perseverance2013@aol.com).
2. **DOD Chief FOIA Officer.** review and amend your FOIA raw data dating back to 2013 where there are massive numbers of FOIA requests and appeals still open that are not being reported as such. Initiate administrative reviews.
3. **DOJ** conduct independent audits of all DOD annual FOIA reports to raw data and

## Attachment A

electronic FOIA portals (e.g., FOIAonline) against raw data from 2013 forward or get GAO to do it for you. DOD's FOIA reporting is massively false. Please address at the June 29, 2022 FOIA Open Meeting your efforts to date to address massive FALSE FOIA Reporting. Please address the case numbers cited herein.

4. **NARA Office of Government Information Services**, at the upcoming June 29, 2022 FOIA Open Meeting, OGIS will be addressing it's Freedom of Information Act Ombudsman 2022 Report for Fiscal Year 2021. "The Freedom of Information Act (FOIA) mandates that the Office of Government Information Services (OGIS) review agency FOIA policies, procedures and **compliance**, 5 U.S.C. §§ 552 (h)(2)(A) and 552 (h)(2)(B)." I have provided OGIS countless examples of massive False FOAI Reporting, including DOD and NARA. Please discuss at the meeting your efforts to date (if any) to address this.

With my deep respect,

Robert Hammond  
Whistleblower

---

**From:** [no-reply@foiaonline.gov](mailto:no-reply@foiaonline.gov) <[no-reply@foiaonline.gov](mailto:no-reply@foiaonline.gov)>

**Sent:** Friday, June 17, 2022 7:53 AM

**To:** [perseverance2013@aol.com](mailto:perseverance2013@aol.com)

**Subject:** Still interested letter

Still interested letter

DEPARTMENT OF THE NAVY  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON NAVY YARD DC 20374  
IN REPLY REFER TO:

5720

Ser 14/245

June 16, 2022

SENT VIA FOIA ONLINE, DOD SAFE, AND U.S. MAIL

Mr. Robert Hammond

REDACTED

E-mail: [perseverance2013@aol.com](mailto:perseverance2013@aol.com)

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUESTS DON-NAVY-2019-000004, DON-NAVY-2018-011918, DON-NAVY-2018-002619, DON-NAVY-2018-002156, DON-NAVY-2018-002630, DON-NAVY-2018-002663, DON-NAVY-2018-001684, DON-NAVY-2018-002615, DON-NAVY-2019-002108, DON-NAVY-2019-002293, DON-NAVY-2019-002310, DON-NAVY-2019-002335, DON-NAVY-2018-011318, DON-NAVY-2019-002401, DON-NAVY-2018-011904, DON-NAVY-2021-000407; FOIA APPEALS DON-NAVY-2019-000581, DON-NAVY-2019-006137, DON-NAVY-2019-001380, DON-NAVY-2019-001389, DON-NAVY-2019-001391, DON-NAVY-2019-001392, DON-NAVY-2019-



## Attachment A

001515, DON-NAVY-2019-001518, DON-NAVY-2019-002112, DON-NAVY-2019-002294, DON-NAVY-2019-002311, DON-NAVY-2019-002336, DON-NAVY-2019-002341, DON-NAVY-2019-002402, DON-NAVY-2019-002977, DON-NAVY-2022-001294

This letter responds to your FOIA appeals submitted between November 1, 2018 and November 4, 2021, which were assigned tracking numbers referenced in the above subject line.

Your underlying requests, referenced in the above subject line, were submitted to the Secretary of the Navy/Chief of Naval Operations FOIA Office (DNS-36), the initial denial authority in fiscal years 2018-2021.

As of today, your appeals are still pending. I write to inquire as to whether you are still interested in your appeals being adjudicated by the Office of the Judge Advocate General, General Litigation Division (Code 14). If you are still interested, please inform Code 14 within 30 business days from the date of this letter by mail or via FOIA Online. If you choose to contact Code 14 by mail, please address your correspondence as follows:

Office of the Judge Advocate General – General Litigation Division

ATTN: FOIA APPEALS  
1322 Patterson Ave., Suite 3000  
Washington Navy Yard, D.C. 20374-5066

If Code 14 does not receive any response from you within 30 business days of the date of this letter, your appeal will be administratively closed with no further action taken.

Sincerely,

N. A. BOSIAK  
FOIA Appeals Branch Chief  
General Litigation Division

**Enclosure 2**  
**IDA Determination of**  
**September 7, 2022**





DEPARTMENT OF THE NAVY  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:  
5720  
Ser 13/3FA0708.22  
September 7, 2022

Mr. Robert Hammond  
Perseverance2013@aol.com

Dear Mr. Hammond:

SUBJECT: FREEDOM OF INFORMATION ACT REQUEST DON-NAVY-2022-012074

This responds to your above-referenced Freedom of Information Act (FOIA) request dated August 24, 2022. You request a copy of the following:

- “1. All records of any kind in the possession of **DOJ JAG** from August 2, 2022 10:15 AM to present related to my email “DOJ Compliance Inquiry, OGIS Mediation +RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting)” and contact with the Office of Government Information Services. See Attachment A.
2. Records would include, but not be limited to:
  - a. All emails.
  - b. All records of communication with and responses by NARA’s Office of Government Information Services, including, but not limited to ogis@nara.gov; alina.semo@nara.gov; debra.wall@nara.gov; 'NARA NGC General Counsel FOIA' <foia@nara.gov>; alina.semo@nara.gov; 'Robert Hammond' <dod.foia.pa@gmail.com>; sheela.portonovo@nara.gov; teresa.brady@nara.gov; CHRISTA.Lemelin@nara.gov; daniel.levenson@nara.gov; kimberly.reed@nara.gov; carrie.mcguire@nara.gov; dwaine.bacon@nara.gov
  - c. All records of communication with and responses by Navy’s FOIA Public Liaison, Christopher Julka, Christopher.a.julka@navy.mil:
  - d. All internal Department of Navy Office of the Judge Advocate General (DON JAG) correspondence
  - e. Any communications by email, fax or in any other format between **DOJ JAG** any other entity, including DONFOIA-PA. Principals at DONFOIA-PA, whose information is in the public Domain, includes:

Richard R. Strong  
Deputy Director, FOIA/Privacy  
Department of the Navy  
P-202-685-6546  
F-202-685-6580  
Richard.r.strong@navy.mil

Robin. Patterson  
Head, SECNAV/CNO FOIA/PA Program Office (DNS-36).  
CNO Office of The Director, Navy Staff  
Organization and Management Division  
FOIA/PA Service Center 202 685-0412 [DONFOIA-PA@NAVY.MIL](mailto:DONFOIA-PA@NAVY.MIL)

Joshua Portner  
SECNAV/CNO FOIA Requester Service Center (DNS-36)  
Contractor Support  
(202) 685-6517  
[joshua.portner.ctr@navy.mil](mailto:joshua.portner.ctr@navy.mil)

f. All records of communication with the Office of DOD's Chief FOIA Officer, Joo Chung and her staff.

3. I am also seeking a copy of this FOIA Request, which is an Agency record subject to FOIA that exists and is in the Agency's possession at the time of my FOIA request. This record is a responsive record integral to my Request. Release of the Agency's copy is not optional."

This final response is provided on behalf of the Office of the Judge Advocate General (OJAG). Your request was processed in accordance with the FOIA, 5 U.S.C. § 552, the Privacy Act, 5 U.S.C. § 552a; the Department of the Navy Freedom of Information Act Program, SECNAVINST 5720.42G; and the Department of the Navy Privacy Act Program, SECNAVINST 5211.5F.

Individuals who were most knowledgeable about the likely location of responsive records searched computer databases for any documents responsive to your request. No records responsive to your request were found. You may file another FOIA request for this information. If you choose to proceed with resubmitting your request, to the extent possible, please include specific information that may assist personnel in identifying the requested records, such as the date, title or name, command name, or subject matter of the record.

I am the official responsible for the processing of your request. This determination may be appealed, in writing, to OJAG, General Litigation Division (Code 14), 1322 Patterson Avenue, SE, Suite 3000, Washington Navy Yard, DC 20374-5066. Should you wish to appeal this matter, I recommend your envelope and statement bear the notation "FOIA Appeal" and include a copy of your initial request and a copy of this letter. Additionally, you are encouraged to provide an explanation of why you believe this determination is inadequate. Your appeal must be postmarked within 90 days of the date of this letter. No fees were generated by this request. You may also appeal via FOIA Online.

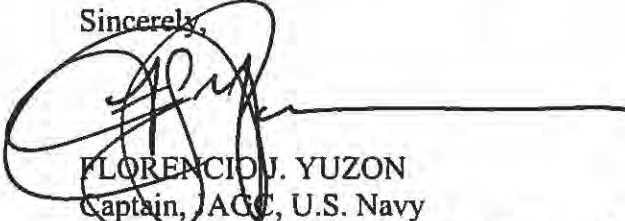
For any further assistance and to discuss any aspect of your request, you have the right to contact the DON FOIA Public Liaison at [DONFOIAPublicLiaison@navy.mil](mailto:DONFOIAPublicLiaison@navy.mil). Additionally, you have the right to contact the Office of Government Information Services (OGIS) to inquire about the FOIA mediation services they offer. The contact information of OGIS is: Office of



Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

My point of contact for this matter is Commander Brian F. Roach, JAGC, USN. If you have any questions, please contact him by e-mail at [brian.f.roach.mil@us.navy.mil](mailto:brian.f.roach.mil@us.navy.mil).

Sincerely,



FLORENCIO J. YUZON  
Captain, JAGC, U.S. Navy  
Deputy Assistant Judge Advocate General  
(Administrative Law)

**Enclosure 3**  
**IDA Determination of**  
**August 30, 2022**



**DEPARTMENT OF THE NAVY**  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:  
5720  
Ser 14/384  
August 30, 2022

***SENT VIA FOIA ONLINE AND DOD SAFE***

Mr. Robert Hammond  
11828 Wayland Street  
Oakton, VA 22124  
Email: perseverance2013@aol.com

**SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUEST DON-NAVY-2022-012074**

This letter responds your August 24, 2022 FOIA request, which was submitted on FOIA Online to the Office of the Judge Advocate General, Administrative Law Division (Code 13) and assigned tracking number DON-NAVY-2022-012074. Your request was assigned to my office via FOIA Online on August 29, 2022. In your request, you seek, in addition to a fee waiver and expedited processing, information regarding

[a]ll records of any kind in the possession of DON JAG from August 2, 2022 10:15 AM to present related to [your] email ‘DOJ Compliance Inquiry, OGIS Mediation +RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting)’ and contact with the Office of Government Information Services.

You specify, further, that your request includes, but is not limited to, “all emails” and “records of communication with and responses by” NARA’s Office of Government Information Services, and other Department of Defense (DoD) and Department of the Navy (DON) components, including in the DoD Chief FOIA Officer, DON Public Liaison’s Office, and the Secretary of the Navy/Chief of Naval Operations FOIA Office (DNS-36) related to your email “DOJ Compliance Inquiry, OGIS Mediation +RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting.”

Your request was processed under applicable provisions of the FOIA, as amended, and the implementing Navy Department directive (SECNAVINST 5720.42G). As a result of that search, my office located 17 records responsive to your request. One of those records will be released to you, subject to redaction under FOIA exemption (b)(6), as that record contains personally identifiable information (PII). However, 16 responsive records will be withheld in full under FOIA exemption (b)(5), as those records contain

deliberative and pre-decisional information which cannot be segregated from non-exempt information; and FOIA exemption (b)(6), as the records contain names and other personally identifiable information. My review included consideration of the “foreseeable harm standard” (i.e., that information which might technically fall within an exemption should not be withheld from a FOIA requester unless the agency can identify a foreseeable harm or legal bar to disclosure).

I categorized your requestor status as other requestor under the FOIA. However, fees are not billable in this case. Additionally, because I am answering your request within 10 business days of its submission, your request for expedited processing is denied as moot.

I am the official responsible for making this decision under the FOIA. Because this response is adverse, I am advising you of your right to appeal this determination. Your appeal must be received (i.e., post-marked if by mail or submitted if by FOIA Online) within 90 calendar days from the date of this letter. Please provide the appellate authority (see below) the following in an envelope marked “FOIA Appeal”:

- a letter requesting an appeal that explains what you are appealing with any supporting arguments or reasons you think may be worthy of consideration;
- a copy of your initial request; and
- a copy of the letter of denial.

There are two ways to file an appeal—through FOIA Online or by mail.

**1. Appealing through FOIA Online.** You must first set up an account on FOIA Online before you can submit an appeal. To set up an account, go to FOIA Online (this is a website that will appear as the top hit if you search the internet for “FOIAonline”), click “Create Account” (a link located within the blue banner at the top in the upper right corner), enter your data into the field that subsequently appears, and click “Save” (at the bottom left of the screen). With your account thereby created, you will have the power to file an appeal on FOIAonline to any request you file on FOIAonline thereafter. To do so, locate your request (enter a keyword or the request tracking number in the “Search for” field on the “Search” tab), click on it, then the “Create Appeal” tab in the left-hand column. Complete the subsequent field, click “Save,” and FOIAonline will submit your appeal.

**2. Appealing by mail.** Address your appeal to:

Office of the Judge Advocate General  
Assistant Judge Advocate General (Civil Law)  
1322 Patterson Avenue S.E., Suite 3000  
Washington Navy Yard, DC 20374-5066

5720  
Ser 14/384  
August 30, 2022

The envelope and letter must bear the annotation "FOIA Appeal." Please include a copy of your original request, this response letter, and the grounds for your appeal.

If you would like to seek dispute resolution services, you have the right to contact the Department of the Navy's FOIA public liaison, Mr. Christopher Julka, at christopher.a.julka@navy.mil or (703) 697-0031. You may also seek dispute resolution services from the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, at (202) 741-5770 or ogis@nara.gov. OGIS provides a voluntary mediation process for resolving disputes between persons making FOIA requests and the Department of the Navy (DON). For more information, go to <https://www.archives.gov/ogis/about-ogis/contact-information>.

If you have further questions or concerns for my office, my point of contact is LT Nate Bosiak, JAGC, USN, who may be reached at (202) 685-5452 or by email at nathaniel.a.bosiak.mil@us.navy.mil.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. D. Schrock', with a long horizontal flourish extending to the right.

S. D. SCHROCK  
Director  
General Litigation Division

**Enclosure 4**  
**Agency's Redacted Records Release**  
**of August 30, 2022**



**From:** (b) (6) USN NAVCIVLAWSUPPACT DC (USA)  
**To:** (b) (6) USN NAVCIVLAWSUPPACT DC (USA)  
**Subject:** FW: [URL Verdict: Neutral][Non-DoD Source] FW: DOJ Compliance Inquiry, OGIS Mediation +RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting  
**Date:** Wednesday, August 24, 2022 1:41:00 PM  
**Attachments:** ATT00001.pdf  
DOD MASSIVE FALSE REPORTING PART II + Still Interested Abuse.pdf  
Correspondence only by Email. RE Preemptive Reply to DODNavy FW Still... (1.26 MB).msg  
(b) (6) FOIAs - Still Interested is enduring for my requests (21.7 KB).msg  
FW FOIA - Still Interested is enduring for my requests (22.0 KB).msg  
22-3417 (b) (6) Response (002).pdf

FYSA (b) (6).

Very Respectfully,

(b) (6)

---

**From:** (b) (6) @gmail.com <(b) (6) @gmail.com>  
**Sent:** Wednesday, August 24, 2022 1:32 PM  
**To:** (b) (6) @aol.com; donfoia-pa@navy.mil; robin.patterson@navy.mil; christopher.a.julka@navy.mil; (b) (6) @navy.mil; (b) (6) USN NAVCIVLAWSUPPACT DC (USA) (b) (6) @us.navy.mil; DHA.FOIA@mail.mil; Chung, Joo Y SES OSD OATSD (PCLT) (USA) <joo.y.chung2.civ@mail.mil>; OIP.ComplianceInquiry@usdoj.gov; (b) (6) @usdoj.gov; DHA.FOIA@mail.mil; dha.ncr.pcl.mbx.foia-requests@mail.mil; dha.bethesa.ncr.medical.mbx.wrnm-hipaa-mail@mail.mil; (b) (6) @aecom.com; (b) (6) CIV DHA OFC COFS (USA) <(b) (6) civ@mail.mil>; Davidge, Joseph E (Joe) JR CIV DHA DHA (USA) <joseph.e.davidge.civ@mail.mil>; donfoia-pa@navy.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) CIV WHS ESD (USA) <(b) (6) .civ@mail.mil>; (b) (6) @aecom.com; (b) (6) @navy.mil; (b) (6) @med.navy.mil; (b) (6) @navy.mil; (b) (6) @med.navy.mil; DONFOIA-PA@navy.mil; christopher.a.julka@navy.mil; (b) (6) .ctr@navy.mil; (b) (6) @navy.mil; (b) (6) .ctr@navy.mil; (b) (6) .ctr@navy.mil; (b) (6) @navy.mil; robin.patterson@navy.mil; thomas.b.Modly.civ@mail.mil; (b) (6) .mil@mail.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) @mail.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) @navy.mil; (b) (6) .mil@mail.mil; dod.foia.pa@gmail.com; usarmy.jbsa.medcom.list.medcom-foia-users@mail.mil; usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil; osd.mc-alex.odcmo.mbx.foia-liaison@mail.mil  
**Cc:** (b) (6) .civ@mail.mil; (b) (6) .civ@mail.mil; (b) (6) CIV USARMY MEDCOM HQ (USA) <(b) (6) .civ@mail.mil>; (b) (6) .civ@mail.mil; usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil; usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia@mail.mil; usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil; (b) (6) .mil@mail.mil; (b) (6) .mil@mail.mil; (b) (6) CIV USARMY MEDCOM RHC-P (USA) <(b) (6) .civ@mail.mil>; (b) (6) .civ@mail.mil; (b) (6) .mil@mail.mil; usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil; 'FOIA' <foia@nara.gov>; (b) (6) @gao.gov; (b) (6) @gao.gov;

(b) (6) @nara.gov; ogis@nara.gov; OIP.ComplianceInquiry@usdoj.gov;  
(b) (6) @usdoj.gov; garym.stern@nara.gov; 'NARA NGC General Counsel FOIA'  
<foia@nara.gov>; foiacomplaine@gmail.com; (b) (6) @gmal.com;  
foiacompliance@gmail.com

**Subject:** [URL Verdict: Neutral][Non-DoD Source] FW: DOJ Compliance Inquiry, OGIS Mediation +RE:  
Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting

### **Summary.**

-  
Navy waited four years to initiate still interested letters for appeals and requests, despite my numerous pre-emptive correspondences that my interests are enduring and the fact that there is no procedure for still interested inquiries to appeals. Navy is simply trying to close cases without having to report them in their annual FOIA reports on a massive scale.

Navy's preemptive letters do not comport with DOJ OIP guidelines.

Navy is engaged in massive false FOIA reporting with respect to specific case numbers that I identified and massively many more. This is a DOD problem.

Office of Government Information Services (OGIS) and DOJ Office of Information Policy (DOJ OIP) have not acted in accordance with law in addressing my mediation requests and compliance inquiries.

Audits are needed, not only with respect to the issues cited herein, but also to the adequacy of funding impacting mission performance of OGIS and DOJ OIP.

### **OGIS Actions.**

(b) (6), (b) (6),

By law OGIS cannot refuse mediation of DOD's massive abuse of still interested letters with my countless preemptive still interested correspondence dating back many years. OGIS must act on my request below that "I want mediation, not a reply from the agency FPL."

OGIS must also address Navy's massive incontrovertible False FOIA reporting. The FOIA statute requires that "The Office of Government Information Services shall— ... (B) review compliance with this section by administrative agencies.

Your attached correspondence 22-3417 (b) (6) Response letter improperly closed this case without addressing the issues: (1) Navy's still interested inquires relating to appeals are improper as there is no procedure for that, (2) Navy's still interested inquiries are improper in that I had preemptively and repeatedly stated my enduring interest prior to the inquiries, (3) Navy is involved in massive false FOIA reporting which OGIS must address.

This is particularly disturbing in that over a month ago I sent OGIS for posting to the Annual Open FOIA meeting my public comment, "DOD MASSIVE FALSE REPORTING PART II + Still Interested Abuse. Updated July 27, 2022" outlining

these same issues. OGIS/DOJ OIP have not posted that presentation and Navy continued its massive abuse of still interested letters and False FOIA reporting, *See* [https://www.documentcloud.org/app?q=%2Buser%3A\(b\) \(6\) -106693%20](https://www.documentcloud.org/app?q=%2Buser%3A(b) (6) -106693%20) . See also “Failure - FOIA Compliance Oversight & Funding. Part 2. No Joking Matter.”

**ACTION.**

1. Immediately open individual mediation cases, per my request below, directly with DON JAG, not the Agency FPL. There is no such thing as “USN FOIA office” cited in your letter; OGIS is attempting to obfuscate that you did not engage with DON JAG, but rather with the Agency FPL, which is a distinct, separate, non-exclusive right from OGIS. OGIS cannot refuse mediation. If Navy refuses to engage in mediation, OGIS must so state in any subsequent closure letter and in annual Ombuds reports.
2. Immediately address Navy’s incontrovertible False FOIA reporting and include your findings/action in a subsequent closure letter.
3. Issue proper closure letters to each instance, with copies to the head of DON JAG, and the DON CIO, who is the Department of the Navy's Senior Military Component Official for the Freedom of Information Act (FOIA).
4. I am today filing an expedited FOIA request seeking OGIS case processing records related to this mater – promptly reply.

**DOJ OIP Actions.**

**(b) (6)**, **(b) (6)** :

1. Per below, please advise me of the individualized compliance inquiry case numbers to my complaints below and the status of those inquiries.
2. Address each instance of FALSE FOIA reporting.
3. Address impropriety of still interested inquiries applied to appeals.
4. Address Navy misconduct in issuing the still interested letters, which do not comport with DOJ OIP guidelines as to when they can be issued.
5. Address OGIS misconduct cited above, which violates both law and DOJ OIP Policy.
6. Issue proper closure letters to each instance, with copies to the head of DON JAG, and the DON CIO, who is the Department of the Navy's Senior Military Component Official for the Freedom of Information Act (FOIA).

**GAO,**

- Please include these matters in any FOIA audits, including those relating to agency backlogs, Navy’s malign tactic of reducing backlogs by closing them pursuant to still interested inquiries. Please examine the extent of the problem. For the agency to wait four years to inquire about open FOIA requests and appeals, that have apparently not been reported as open, is not only a procedural issue, but an ethical one as well.

With my deep respect,

**(b) (6)**

---

From: **(b) (6)** @aol.com <**(b) (6)** @aol.com>



therefore each a violation of the Administrative Procedures Act. See [OIP Releases New Guidance for Agency Still-Interested Inquiries | OIP | Department of Justice](https://www.justice.gov/oip/blog/oip-releases-new-guidance-agency-still-interested-inquiries)  
<https://www.justice.gov/oip/blog/oip-releases-new-guidance-agency-still-interested-inquiries>

DOJ/DOJ OIP,

Please open individual compliance inquiries regarding still interested abuse and false FOIA reporting for the following FOIA requests and appeals cited in the attached June 16, 2022 letter:

FREEDOM OF INFORMATION ACT (FOIA) REQUESTS DON-NAVY-2019-000004, DON-NAVY-2018-011918, DON-NAVY-2018-002619, DON-NAVY-2018-002156, DON-NAVY-2018-002630, DON-NAVY-2018-002663, DON-NAVY-2018-001684, DON-NAVY-2018-002615, DON-NAVY-2019-002108, DON-NAVY-2019-002293, DON-NAVY-2019-002310, DON-NAVY-2019-002335, DON-NAVY-2018-011318, DON-NAVY-2019-002401, DON-NAVY-2018-011904, DON-NAVY-2021-000407; FOIA APPEALS DON-NAVY-2019-000581, DON-NAVY-2019-006137, DON-NAVY-2019-001380, DON-NAVY-2019-001389, DON-NAVY-2019-001391, DON-NAVY-2019-001392, DON-NAVY-2019-001515, DON-NAVY-2019-001518, DON-NAVY-2019-002112, DON-NAVY-2019-002294, DON-NAVY-2019-002311, DON-NAVY-2019-002336, DON-NAVY-2019-002341, DON-NAVY-2019-002402, DON-NAVY-2019-002977, DON-NAVY-2022-001294

Reissue guidance regarding still interested in queries.

**(b) (6)**, please allocate sufficient funding for DOJ OIP to accomplish its FOIA compliance mission. I plan to send OIP some 2,000 compliance inquiries near term.

OGIS,

Please open individual mediation cases for the above. I want mediation, not a reply from the agency FPL. This abuse continues and we must get to the bottom of it. Reissue guidance regarding still interested inquiries.

GAO,

Please include in any FOIA audits, including those relating to agency backlogs, Navy's malign tactic of reducing backlogs by closing them pursuant to still interested inquiries. Please examine the extent of the problem. For the agency to wait four years to inquire about open FOIA requests and appeals, that have apparently not been reported as open, is not only a procedural issue, but an ethical one as well.

While I want to work with DOD directly to resolve open matters, I cannot continue new abuse. This must stop.

With my deep respect,





[liaison@mail.mil](mailto:liaison@mail.mil); 'usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia@mail.mil' [usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia@mail.mil](mailto:usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia@mail.mil); 'usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil' [usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil](mailto:usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil); (b) (6) .mil@mail.mil' (b) (6) .mil@mail.mil; (b) (6) .mil@mail.mil; (b) (6) .mil@mail.mil; (b) (6) .civ@mail.mil' (b) (6) .civ@mail.mil; (b) (6) .civ@mail.mil' (b) (6) .civ@mail.mil; (b) (6) .mil@mail.mil' (b) (6) .mil@mail.mil; 'usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil' [usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil](mailto:usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil); 'FOIA' [foia@nara.gov](mailto:foia@nara.gov); (b) (6) @gao.gov' (b) (6) @gao.gov; (b) (6) @gao.gov' (b) (6) @gao.gov; (b) (6) @nara.gov' (b) (6) @nara.gov; 'ogis@nara.gov' [ogis@nara.gov](mailto:ogis@nara.gov)

**Subject:** RE: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting

My still interested responses apply to all FOIA requests and appeals ever submitted.

Do not ask again.

(b) (6)

---

**From:** (b) (6) @aol.com <(b) (6) @aol.com>  
**Sent:** Friday, June 17, 2022 12:58 PM  
**To:** 'donfoia-pa@navy.mil' <[donfoia-pa@navy.mil](mailto:donfoia-pa@navy.mil)>; 'robin.patterson@navy.mil' <[robin.patterson@navy.mil](mailto:robin.patterson@navy.mil)>; 'christopher.a.julka@navy.mil' <[christopher.a.julka@navy.mil](mailto:christopher.a.julka@navy.mil)>; (b) (6) @navy.mil' (b) (6) @navy.mil'; (b) (6) .mil@us.navy.mil' (b) (6) .mil@us.navy.mil'; 'DHA.FOIA@mail.mil' <[DHA.FOIA@mail.mil](mailto:DHA.FOIA@mail.mil)>; 'joo.y.chung2.civ@mail.mil' <[joo.y.chung2.civ@mail.mil](mailto:joo.y.chung2.civ@mail.mil)>; 'OIP.ComplianceInquiry@usdoj.gov' <[OIP.ComplianceInquiry@usdoj.gov](mailto:OIP.ComplianceInquiry@usdoj.gov)>; (b) (6) @usdoj.gov' <(b) (6) @usdoj.gov>; 'DHA.FOIA@mail.mil' <[DHA.FOIA@mail.mil](mailto:DHA.FOIA@mail.mil)>; 'dha.ncr.pcl.mbx.foia-requests@mail.mil' <[dha.ncr.pcl.mbx.foia-requests@mail.mil](mailto:dha.ncr.pcl.mbx.foia-requests@mail.mil)>; 'dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil' <[dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil](mailto:dha.bethesa.ncr.medical.mbx.wrn-hipaa-mail@mail.mil)>; (b) (6) @aecom.com' <(b) (6) @aecom.com>; (b) (6) .civ@mail.mil' (b) (6) .civ@mail.mil'; 'joseph.e.davidge.civ@mail.mil' <[joseph.e.davidge.civ@mail.mil](mailto:joseph.e.davidge.civ@mail.mil)>; 'donfoia-pa@navy.mil' <[donfoia-pa@navy.mil](mailto:donfoia-pa@navy.mil)>; (b) (6) @navy.mil' <(b) (6) @navy.mil>; (b) (6) @navy.mil' <(b) (6) @navy.mil>; (b) (6) CIV WHS ESD (USA)' (b) (6) .civ@mail.mil'; (b) (6) @aecom.com' <(b) (6) @aecom.com>; (b) (6) @navy.mil' (b) (6) @navy.mil'; (b) (6) @med.navy.mil' (b) (6) @med.navy.mil'; (b) (6) @navy.mil' (b) (6) @navy.mil'; (b) (6) @med.navy.mil' (b) (6) @med.navy.mil'; 'DONFOIA-PA@navy.mil' <[DONFOIA-PA@navy.mil](mailto:DONFOIA-PA@navy.mil)>; 'Christopher.a.julka@navy.mil' <[Christopher.a.julka@navy.mil](mailto:Christopher.a.julka@navy.mil)>; (b) (6) .ctr@navy.mil' (b) (6) .ctr@navy.mil'; (b) (6) @navy.mil' (b) (6) @navy.mil'; (b) (6) @navy.mil'; (b) (6) .ctr@navy.mil' <(b) (6) .ctr@navy.mil>; (b) (6) .ctr@navy.mil' (b) (6) .ctr@navy.mil'; (b) (6) @navy.mil' (b) (6) @navy.mil'; 'robin.patterson@navy.mil' <[robin.patterson@navy.mil](mailto:robin.patterson@navy.mil)>; 'thomas.b.Modly.civ@mail.mil' <[thomas.b.Modly.civ@mail.mil](mailto:thomas.b.Modly.civ@mail.mil)>; (b) (6) .mil@mail.mil'

<(b) (6) .mil@mail.mil>; (b) (6) @navy.mil' <(b) (6) @navy.mil>;  
(b) (6) @navy.mil' (b) (6) @navy.mil>; (b) (6) @navy.mil'  
(b) (6) @navy.mil>; (b) (6) @navy.mil' <(b) (6) @navy.mil>; (b) (6) @navy.mil'  
<(b) (6) @navy.mil>; (b) (6) @navy.mil' <(b) (6) @navy.mil>; (b) (6) @mail.mil'  
<(b) (6) @mail.mil>; (b) (6) @navy.mil' (b) (6) @navy.mil>; (b) (6) @navy.mil'  
<(b) (6) @navy.mil>; (b) (6) @navy.mil' <(b) (6) @navy.mil>;  
(b) (6) @navy.mil' (b) (6) @navy.mil>; (b) (6) @navy.mil'  
(b) (6) @navy.mil>; (b) (6) @navy.mil' (b) (6) @navy.mil>;  
(b) (6) @navy.mil' (b) (6) @navy.mil>; (b) (6) .mil@mail.mil'  
(b) (6) .mil@mail.mil>; 'dod.foia.pa@gmail.com' <dod.foia.pa@gmail.com>;  
'usarmy.jbsa.medcom.list.medcom-foia-users@mail.mil' <usarmy.jbsa.medcom.list.medcom-foia-  
users@mail.mil>; 'usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil'  
<usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil>; 'osd.mc-  
alex.odcmo.mbx.foia-liaison@mail.mil' <osd.mc-alex.odcmo.mbx.foia-liaison@mail.mil>  
**Cc:** (b) (6) .civ@mail.mil' (b) (6) .civ@mail.mil>; (b) (6) .civ@mail.mil'  
(b) (6) .civ@mail.mil>; (b) (6) .civ@mail.mil' <(b) (6) .civ@mail.mil>;  
(b) (6) .civ@mail.mil' (b) (6) .civ@mail.mil>; 'usarmy.belvoir.hqda-oaa-  
ahs.mbx.rmda-foia-public-liaison@mail.mil' <usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-  
liaison@mail.mil>; 'usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia@mail.mil' <usarmy.belvoir.hqda-  
oaa-ahs.mbx.rmda-foia@mail.mil>; 'usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-  
liaison@mail.mil' <usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil>;  
(b) (6) .mil@mail.mil' <(b) (6) .mil@mail.mil>; (b) (6) .mil@mail.mil'  
<(b) (6) .mil@mail.mil>; (b) (6) .civ@mail.mil' (b) (6) .civ@mail.mil>;  
(b) (6) .civ@mail.mil' <(b) (6) .civ@mail.mil>; (b) (6) .mil@mail.mil'  
<(b) (6) .mil@mail.mil>; 'usarmy.tripler.medcom-tamc.mbx.customer-relations-  
office@mail.mil' <usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil>; 'FOIA'  
<foia@nara.gov>; (b) (6) @gao.gov' (b) (6) @gao.gov>; (b) (6) @gao.gov'  
<(b) (6) @gao.gov>; (b) (6) @nara.gov' <(b) (6) @nara.gov>; 'ogis@nara.gov'  
<ogis@nara.gov>

**Subject:** Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting

**Importance:** High

Joo Chung (DOD Chief FOIA Officer), Mr. Julka (Navy FOIA Public Liaison), DONFOIA-PA, Robin Patterson, Joe Davidge, (DHA FOIA Public Liaison), (b) (6) (DOJ), (b) (6) NARA OGIS), et al:

This responds to Navy's letter Ser 14-245 and five emails citing multiple FOIA requests and appeals regarding still interested inquiries of certain FOIA requests and appeals dating back to 2018.

**DOD MASSIVE FALSE FOIA REPORTING.** As I spot checked a few of the FOIA tracking numbers cited in Navy's letter Ser 14-245, which Navy cites as open and for which is seeking still interested replies, none are listed in DOD's FY 2021 FOIA raw data. <https://open.defense.gov/Transparency/FOIA/DoD-Annual-Reports-to-AG/> . This is a blatant attempt to cover-up false FOIA reporting, in my view. It will not stand. There may also be ethical and performance standards issues.



**IMPROPER STILL INTERESTED INQUIRY**

First, there is no provision for a still interested inquiry to an appeal.

Nevertheless, I am reiterating, as cited in the 11 attached still interested preemptive replies:

**STILL-INTERESTED PREEMPTIVE REPLY.** This is a preemptive reply to the Justice Department guidelines the procedure known as a “still interested” inquiry, through which a FOIA officer can confirm that the requester has not lost interest in obtaining the documents.

My interest in all FOIA requests and appeals submitted to your office is enduring, meaning that my interest in seeking replies to all past and future FOIA requests and appeals remains in effect until each request has been answered fully and the time for judicial review has passed. Please do not initiate any "still interested" inquiries. This serves as my notice of enduring interest and automatic reply to any future questions of interest by your office. There are no reasonable grounds to ever conclude in the future that I am not interested in this request.

ANY referral or transfer of any of my FOIA requests/appeals must include my still interested preemptive reply.

**ACTION FOA ALL ADDRESSEES.**

1. **All.** Append this preemptive still interested reply to all requests and appeals received from me, (b) (6), (b) (6) @aol.com.
2. **DOD Chief FOIA Officer.** review and amend your FOIA raw data dating back to 2013 where there are massive numbers of FOIA requests and appeals still open that are not being reported as such. Initiate administrative reviews.
3. **DOJ** conduct independent audits of all DOD annual FOIA reports to raw data and electronic FOIA portals (e.g., FOIAonline) against raw data from 2013 forward or get GAO to do it for you. DOD’s FOIA reporting is massively false. Please address at the June 29, 2022 FOIA Open Meeting your efforts to date to address massive FALSE FOIA Reporting. Please address the case numbers cited herein.
4. **NARA Office of Government Information Services,** at the upcoming June 29, 2022 FOIA Open Meeting, OGIS will be addressing it’s Freedom of Information Act Ombudsman 2022 Report for Fiscal Year 2021. “The Freedom of Information Act (FOIA) mandates that the Office of Government Information Services (OGIS) review agency FOIA policies, procedures and **compliance**, 5 U.S.C. §§ 552 (h)(2)(A) and 552 (h)(2)(B).” I have provided OGIS countless examples of massive False FOAI Reporting, including DOD and NARA. Please discuss at the meeting your efforts to date (if any) to address this.

With my deep respect,

(b) (6)  
Whistleblower

**Sent:** Friday, June 17, 2022 7:53 AM

**To:** (b) (6) @aol.com

**Subject:** Still interested letter

Still interested letter

DEPARTMENT OF THE NAVY  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:

5720

Ser 14/245

June 16, 2022

SENT VIA FOIA ONLINE, DOD SAFE, AND U.S. MAIL

(b) (6)  
REDACTED

E-mail: (b) (6) @aol.com

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUESTS DON-NAVY-2019-000004, DON-NAVY-2018-011918, DON-NAVY-2018-002619, DON-NAVY-2018-002156, DON-NAVY-2018-002630, DON-NAVY-2018-002663, DON-NAVY-2018-001684, DON-NAVY-2018-002615, DON-NAVY-2019-002108, DON-NAVY-2019-002293, DON-NAVY-2019-002310, DON-NAVY-2019-002335, DON-NAVY-2018-011318, DON-NAVY-2019-002401, DON-NAVY-2018-011904, DON-NAVY-2021-000407; FOIA APPEALS DON-NAVY-2019-000581, DON-NAVY-2019-006137, DON-NAVY-2019-001380, DON-NAVY-2019-001389, DON-NAVY-2019-001391, DON-NAVY-2019-001392, DON-NAVY-2019-001515, DON-NAVY-2019-001518, DON-NAVY-2019-002112, DON-NAVY-2019-002294, DON-NAVY-2019-002311, DON-NAVY-2019-002336, DON-NAVY-2019-002341, DON-NAVY-2019-002402, DON-NAVY-2019-002977, DON-NAVY-2022-001294

This letter responds to your FOIA appeals submitted between November 1, 2018 and November 4, 2021, which were assigned tracking numbers referenced in the above subject line.

Your underlying requests, referenced in the above subject line, were submitted to the Secretary of the Navy/Chief of Naval Operations FOIA Office (DNS-36), the initial denial authority in fiscal years 2018-2021.

As of today, your appeals are still pending. I write to inquire as to whether you are still interested in your appeals being adjudicated by the Office of the Judge Advocate General, General Litigation Division (Code 14). If you are still interested, please inform Code 14 within 30 business days from the date of this letter by mail or via FOIA Online. If you choose to contact Code 14 by mail, please address your correspondence as follows:

Office of the Judge Advocate General – General Litigation Division

ATTN: FOIA APPEALS  
1322 Patterson Ave., Suite 3000

Washington Navy Yard, D.C. 20374-5066

If Code 14 does not receive any response from you within 30 business days of the date of this letter, your appeal will be administratively closed with no further action taken.

Sincerely,

(b) (6)

FOIA Appeals Branch Chief  
General Litigation Division

**Enclosure 5**

**DOD MASSIVE FALSE REPORTING PART II +**

**Still Interested Abuse.**

**Updated July 27, 2022**



**HOT**

**DOD MASSIVE FALSE REPORTING PART II**  
**+**  
**NAVY STILL INTERESTED ABUSE**  
**+**  
**COVER-UP?**

**PUBLIC COMMENT**

**June 17, 2022**

**Updated July 27, 2022**

**by Robert Hammond**

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**foiacompliance@gmail.com**

## Update July 27, 2022

This presentation is updated to add seven additional improper still interested letters from Department of Navy's Office of the Judge Advocate General (DON JAG) regarding open administrative appeals.

I originally reported that ten of sixteen open FOIA requests were not reported at all in Navy's FY 2019 FOIA Raw Data.

Of the DON JAG's seven additional appeals still interest letters cited herein three appeals were not reported at all while the remaining four were reported without receipt dates.

Moreover, Navy's letters cite two different request numbers associated with Appeal DON-NAVY-2019-002305 and cite the same request number (DON-NAVY-2018-003737) as associated with two different appeals.

Then, one appeal (DON-NAVY-2019-002131) does not have a request number associated with it indicating further false FOIA reporting.

- **Navy has no idea whatsoever of what they are doing**
- **Still interested inquiries are improper**
- **Navy's annual FOIA report and DOJ's FOIA.gov data are massively false**
- **DOJ OIP and OGIS have failed miserably in their compliance oversight**

<b>Appeals still interested Tracking Numbers</b>	<b>2019 Report Raw Data</b>	<b>Applicable Request</b>
DON-NAVY-2019-002114	No date received	DON-NAVY-2018-010276
DON-NAVY-2019-002131	No date received	No tracking number
DON-NAVY-2019-002282	Not Reported	DON-NAVY-2018-010276
DON-NAVY-2019-002305	No date received	DON-NAVY-2018-010416
DON-NAVY-2019-002305	No date received	DON-NAVY-2018-003737
DON-NAVY-2019-002333	Not Reported	DON-NAVY-2018-003737
DON-NAVY-2019-002402	No date received	DON-NAVY-2018-011804
DON-NAVY-2019-002416	Not Reported	DON-NAVY-2018-010014

## Hyperlinked Outline

### 1. [Preface – Why this matters!](#)

- Posting FOIA Logs
- Estimated Completion Dates
- Improper Still interested inquiries
- Massive False FOIA Reporting
- Department of Justice Office of Information Policy (DOJ OIP) Compliance Inquiries (requiring ten minutes to validate)

### 2. [Email: Preemptive Reply to DOD/Navy FW: Still interested letters + DOD/Navy Massive False FOIA Reporting](#)

### 3. [Email: DOJ OIP Compliance Inquiry 22-C, FY 2021 False Reporting. DON-NAVY-2018-002619 \[one of ten submitted\]](#)

## **PREFACE – Why this matters!**

### **BREAKING NEWS, hot off the press today, Navy Malfeasance??**

This presentation addresses the FOIA Advisory Tech Committee Recommendation #2 requiring proactive posting of FOIA Logs, Office of Government Information Services Advisory Opinion No. 2020-01: Agencies Must Provide Estimated Dates of Completion Upon Request. [ [archives.gov/ogis/advisory-opinions/2020-01-agencies-must-provide-edcs](https://www.archives.gov/ogis/advisory-opinions/2020-01-agencies-must-provide-edcs) ] and DOJ's procedures for "Still Interested" inquiries.

### **Many of my FOIA requests and appeals seek records relating to False FOIA reporting and potential malfeasance in the FOIA process.**

Within DOD, I followed the chain of command from the FOIA Officer through the Agency/Department FOIA Public Liaison (FPL), to DOD's Chief FOIA Officer, to agency/department senior leadership, to service/agency secretariats, to the Secretary of Defense. I also submitted numerous DOJ OIP compliance inquiries and requests for mediation/compliance determinations to NARA's Office of Government Services (OGIS) which has statutory mandates for mediation and compliance oversight.

When I sought from DOD status and estimated completion dates for my outstanding appeals and FOIA requests, rather than provide such information, Department of Navy's Judge Advocate General (DON JAG) General Litigation Division Nathan A. Bosiak sent me seven "Still Interested" inquiries within an hour and a half.

This is despite my FOIA requests containing still interests preemptive replies and my eleven still interested emails stating that my interest in my FOIA requests is enduring:

STILL-INTERESTED PREEMPTIVE REPLY.

This is a preemptive reply to the Justice Department guidelines procedure known as a "still interested" inquiry, through which a FOIA officer can confirm that the requester has not lost interest in obtaining the documents.

My interest in all FOIA requests submitted to your office is enduring, meaning that my interest in seeking replies to all past and future



FOIA requests remains in effect until each request has been answered fully and the time for judicial review has passed. Please do not initiate any "still interested" inquiries. This serves as my notice of enduring interest and automatic reply to any future questions of interest by your office. There are no reasonable grounds to ever conclude in the future that I am not interested in this request.

ANY referral or transfer of any of my FOIA requests/appeals must include my still interested preemptive reply.

### **MASSIVE FALSE FOIA REPORTING.**

See my public comment, "DOD Massive False FOIA Reporting. Part 1. Letters to SECDEF, Complaint to DOJ OIG;" *see also* "Failure - FOIA Compliance Oversight & Funding. Part 2. No Joking Matter."

Out of **SIXTEEN** open FOIA requests cited in DON JAG's letter 5720 Ser 14/245 of June 16, 2022 seeking still interested replies **TEN** are not cited in DOD's Navy FY 2021 FOIA Raw Data, **indicating known False FOIA reporting**. DON JAG (likely Bosiak) submits its own quarterly and annual FOIA reports through DONFOIA-PA to DOD. [A prior director admitted that during his tenure they were inaccurate.]

### **DOJ OIP COMPLIANCE INQUIRIES.**

While I still have open DOJ OIP FOIA compliance inquiries dating back to 2013, I nevertheless submitted ten new DOJ OIP compliance inquiries citing the TEN open FOIA requests as not being reported in DOD's FY 2021 annual FOIA Report Raw Data.

It took me less than ten minutes to check each of the SIXTEEN open FOIA request against DOD's FY 2021 FOIA Raw Data (<https://open.defense.gov/Transparency/FOIA/DoD-Annual-Reports-to-AG/>) and ascertain that the TEN below are not reported:

DON-NAVY-2019-000004  
DON-NAVY-2018-011918  
DON-NAVY-2018-002619  
DON-NAVY-2018-002156  
DON-NAVY-2018-002630

DON-NAVY-2018-002663

DON-NAVY-2018-001684

DON-NAVY-2018-002615

DON-NAVY-2018-011318

DON-NAVY-2018-011904

## **2. Email: Preemptive Reply to DOD/Navy**

**FW: Still interested letters + DOD/Navy**

**Massive False FOIA Reporting**

**From:** [perseverance2013@aol.com](mailto:perseverance2013@aol.com)  
**To:** "donfoia-pa@navy.mil"; "robin.patterson@navy.mil"; "christopher.a.julka@navy.mil"; "wendy.winston@navy.mil"; "nathaniel.a.bosiak.mil@us.navy.mil"; "DHA.FOIA@mail.mil"; "joo.y.chung2.civ@mail.mil"; "OIP.ComplianceInquiry@usdoj.gov"; "bobak.Talebian@usdoj.gov"; "DHA.FOIA@mail.mil"; "dha.ncr.pcl.mbx.foia-requests@mail.mil"; "dha.bethesa.ncr.medical.mbx.wrrm-hipaa-mail@mail.mil"; "ambler.jackson@aecom.com"; "judy.j.bizzell.civ@mail.mil"; "joseph.e.davidge.civ@mail.mil"; "donfoia-pa@navy.mil"; "grant.lattin@navy.mil"; "james.mckeeon@navy.mil"; "Marye, Charles C CIV WHS ESD (USA)"; "ambler.jackson@aecom.com"; "brenda.squires@navy.mil"; "della.garcia@med.navy.mil"; "susan.reyes@navy.mil"; "heather.partridge@med.navy.mil"; "DONFOIA-PA@navy.mil"; "Christopher.a.julka@navy.mil"; "joshua.portner.ctr@navy.mil"; "mary.p.shaw@navy.mil"; "montant.johnson.ctr@navy.mil"; "Raymond.Hartwick.ctr@navy.mil"; "richard.r.strong@navy.mil"; "robin.patterson@navy.mil"; "thomas.b.Modly.civ@mail.mil"; "raquel.c.bono.mil@mail.mil"; "wendy.winston@navy.mil"; "grant.lattin@navy.mil"; "emilee.k.baldini@navy.mil"; "kirk.foster@navy.mil"; "adam.inch@navy.mil"; "adam.yost@navy.mil"; "soto.alaric@mail.mil"; "paul.richelmi@navy.mil"; "eva.lose@navy.mil"; "james.mckeeon@navy.mil"; "Meredith.werner@navy.mil"; "matthew.roush@navy.mil"; "Felecia.M.Ford@navy.mil"; "griffin.farris@navy.mil"; "andrew.m.barr.mil@mail.mil"; "dod.foia.pa@gmail.com"; "usarmy.jbsa.medcom.list.medcom-foia-users@mail.mil"; "usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil"; "osd.mc-alex.odcmo.mbx.foia-liaison@mail.mil"  
**Cc:** "John.P.Peterson.civ@mail.mil"; "Paul.D.Kercher.civ@mail.mil"; "Emily.D.Hall5.civ@mail.mil"; "Elizabeth.N.Arzola.civ@mail.mil"; "usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil"; "usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia-public-liaison@mail.mil"; "jefrey.w.timby.mil@mail.mil"; "timothy.s.sloan.mil@mail.mil"; "Antonio.R.Blount.civ@mail.mil"; "Patti.e.myers.civ@mail.mil"; "Abuoh.e.neuville.mil@mail.mil"; "usarmy.tripler.medcom-tamc.mbx.customer-relations-office@mail.mil"; "FOIA"; "melvinv@gao.gov"; "mctiquej@gao.gov"; "alina.semo@nara.gov"; "ogis@nara.gov"  
**Bcc:** REDACTED  
**Subject:** Preemptive Reply to DOD/Navv FW: Still interested letters + DOD/Navv Massive False FOIA Reporting  
**Date:** Friday, June 17, 2022 12:58:00 PM  
**Attachments:** [Hammond Ser 14-245\\_signed.pdf](#)  
[DOJ FOIA REQUESTS AND APPEALS. STILL-INTERESTED PREEMPTIVE REPLY. .msg](#)  
[Hammond FOIAs - Still Interested is enduring for my requests.msg](#)  
[FW FOIA - Still Interested is enduring for my requests.msg](#)  
[FW FOIA - Still Interested is enduring for my requests.msg](#)  
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[FW FOIA - Still Interested is enduring for my requests.msg](#)  
[Fwd FOIA - Still Interested is enduring for my requests.msg](#)  
**Importance:** High

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Joo Chung (DOD Chief FOIA Officer), Mr. Julka (Navy FOIA Public Liaison), DONFOIA-PA, Robin Patterson, Joe Davidge, (DHA FOIA Public Liaison), Bobby Talebian (DOJ), Ms. Semo NARA OGIS), et al:

This responds to Navy's letter Ser 14-245 and five emails citing multiple FOIA requests and appeals regarding still interested inquiries of certain FOIA requests and appeals dating back to 2018.

**DOD MASSIVE FALSE FOIA REPORTING.** As I spot checked a few of the FOIA request tracking numbers cited in Navy's letter Ser 14-245, which Navy cites as open and for which is seeking still interested replies, none [10 of 16] are listed in DOD's FY 2021 FOIA raw data.

<https://open.defense.gov/Transparency/FOIA/DoD-Annual-Reports-to-AG/> . This may be a blatant attempt to cover-up false FOIA reporting, in my view. It will not stand. There may also be ethical and performance standards issues.

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### **IMPROPER STILL INTERESTED INQUIRY**

First, there is no provision for a still interested inquiry to an appeal.

Nevertheless, I am reiterating, as cited in the 11 attached still interested preemptive replies:

**STILL-INTERESTED PREEMPTIVE REPLY.** This is a preemptive reply to the Justice Department guidelines the procedure known as a “still interested” inquiry, through which a FOIA officer can confirm that the requester has not lost interest in obtaining the documents.

My interest in all FOIA requests and appeals submitted to your office is enduring, meaning that my interest in seeking replies to all past and future FOIA requests and appeals remains in effect until each request has been answered fully and the time for judicial review has passed. Please do not initiate any "still interested" inquiries. This serves as my notice of enduring interest and automatic reply to any future questions of interest by your office. There are no reasonable grounds to ever conclude in the future that I am not interested in this request.

ANY referral or transfer of any of my FOIA requests/appeals must include my still interested preemptive reply.

**ACTION FOA ALL ADDRESSEES.**

1. **All.** Append this preemptive still interested reply to all requests and appeals received from me, Robert Hammond, [perseverance2013@aol.com](mailto:perseverance2013@aol.com).
2. **DOD Chief FOIA Officer.** review and amend your FOIA raw data dating back to 2013 where there are massive numbers of FOIA requests and appeals still open that are not being reported as such. Initiate administrative reviews.
3. **DOJ** conduct independent audits of all DOD annual FOIA reports to raw data and electronic FOIA portals (e.g., FOIAonline) against raw data from 2013 forward or get GAO to do it for you. DOD’s FOIA reporting is massively false. Please address at the June 29, 2022 FOIA Open Meeting your efforts to date to address massive FALSE FOIA Reporting. Please address the case numbers cited herein.
4. **NARA Office of Government Information Services,** at the upcoming June 29, 2022 FOIA Open Meeting, OGIS will be addressing it’s Freedom of Information Act Ombudsman 2022 Report for Fiscal Year 2021. “The Freedom of Information Act (FOIA) mandates that the Office of Government Information Services (OGIS) review agency FOIA policies, procedures and **compliance**, 5 U.S.C. §§ 552 (h)(2)(A) and 552 (h)(2)(B).” I have provided OGIS countless examples of massive False FOAI Reporting, including DOD and NARA. Please discuss at the meeting your efforts to date (if any) to address this.

With my deep respect,

Robert Hammond  
Whistleblower

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**From:** no-reply@foiaonline.gov <no-reply@foiaonline.gov>  
**Sent:** Friday, June 17, 2022 7:53 AM  
**To:** perseverance2013@aol.com  
**Subject:** Still interested letter

Still interested letter

DEPARTMENT OF THE NAVY  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
1322 PATTERSON AVENUE SE SUITE 3000  
WASHINGTON NAVY YARD DC 20374

IN REPLY REFER TO:

5720

Ser 14/245

June 16, 2022

SENT VIA FOIA ONLINE, DOD SAFE, AND U.S. MAIL

Mr. Robert Hammond

REDACTED

E-mail: [perseverance2013@aol.com](mailto:perseverance2013@aol.com)

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUESTS DON-NAVY-2019-000004, DON-NAVY-2018-011918, DON-NAVY-2018-002619, DON-NAVY-2018-002156, DON-NAVY-2018-002630, DON-NAVY-2018-002663, DON-NAVY-2018-001684, DON-NAVY-2018-002615, DON-NAVY-2019-002108, DON-NAVY-2019-002293, DON-NAVY-2019-002310, DON-NAVY-2019-002335, DON-NAVY-2018-011318, DON-NAVY-2019-002401, DON-NAVY-2018-011904, DON-NAVY-2021-000407; FOIA APPEALS DON-NAVY-2019-000581, DON-NAVY-2019-006137, DON-NAVY-2019-001380, DON-NAVY-2019-001389, DON-NAVY-2019-001391, DON-NAVY-2019-001392, DON-NAVY-2019-001515, DON-NAVY-2019-001518, DON-NAVY-2019-002112, DON-NAVY-2019-002294, DON-NAVY-2019-002311, DON-NAVY-2019-002336, DON-NAVY-2019-002341, DON-NAVY-2019-002402, DON-NAVY-2019-002977, DON-NAVY-2022-001294

This letter responds to your FOIA appeals submitted between November 1, 2018 and November 4, 2021, which were assigned tracking numbers referenced in the above subject line.

Your underlying requests, referenced in the above subject line, were submitted to the Secretary of the Navy/Chief of Naval Operations FOIA Office (DNS-36), the initial denial authority in fiscal years 2018-2021.

As of today, your appeals are still pending. I write to inquire as to whether you are still interested in your appeals being adjudicated by the Office of the Judge Advocate General, General Litigation Division (Code 14). If you are still interested, please inform Code 14 within 30 business days from the date of this letter by mail or via FOIA Online. If you choose to contact Code 14 by mail, please address your correspondence as follows:

Office of the Judge Advocate General – General Litigation Division

ATTN: FOIA APPEALS  
1322 Patterson Ave., Suite 3000  
Washington Navy Yard, D.C. 20374-5066

If Code 14 does not receive any response from you within 30 business days of the date of this letter, your appeal will be administratively closed with no further action taken.

Sincerely,

N. A. BOSIAK  
FOIA Appeals Branch Chief  
General Litigation Division

### **3. DOJ OIP Compliance Inquiry 22-J, FY 2021**

**False Reporting. DON-NAVY-2018-011904.**

**[one of ten submitted]**



**From:** [perseverance2013@aol.com](mailto:perseverance2013@aol.com)  
**To:** ["DOJ.OIP.FOIA \(SMO\)"; "OIP.ComplianceInquiry@usdoj.gov"; "bobak.Talebian@usdoj.gov"; "LINDSAY.Steel@doj.gov"](#)  
**Cc:** ["Vanita.Gupta19@usdoj.gov"](mailto:Vanita.Gupta19@usdoj.gov)  
**Subject:** DOJ OIP Compliance Inquiry 22-J, FY 2021 False Reporting. DON-NAVY-2018-011904.  
**Date:** Friday, June 17, 2022 4:44:00 PM

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Mr. Talebian,

For many years I have been complaining about massive false FOIA reporting, which falls under DOJ OIP's area of responsibility. DOJ OIP has not done anything whatsoever.

Please promptly provide me the individualized DOJ OIP compliance inquiry case number for this matter. I am seeking a prompt yes or no answer in a reply letter in PDF format provided to me via return email. DO NOT COMBINE INDIVIDUAL COMPLIANCE INQUIRIES. EACH IS A SEPARATE ALLEGATION.

Please also cite my personal DOJ OIP tracking number and return a copy of my complaint with your closure letter.

I am also seeking that you provide a copy of such closure letter to:

1. DOD's Chief FOIA Officer, Joo Chung, 'joo.y.chung2.civ@mail.mil'
2. Mr. Aaron Weis  
SECNAV DON CIO  
1000 Navy Pentagon  
Washington, DC 20350-1000
3. [DONFOIA-PA@navy.mil](mailto:DONFOIA-PA@navy.mil)
4. Robin Patterson, Head, DONFOIA-PA [robin.patterson@navy.mil](mailto:robin.patterson@navy.mil)
5. Nathan Bosiak, Department of Navy Judge Advocate General (DON JAG), General Litigation Division [nathaniel.a.bosiak.mil@us.navy.mil](mailto:nathaniel.a.bosiak.mil@us.navy.mil)
6. Navy FOIA Public Liaison [Christopher.a.julka@navy.mil](mailto:Christopher.a.julka@navy.mil)

**ALLEGATION, DOJ OIP Compliance Inquiry 22-J, FY 2021 False Reporting. DON-NAVY-2018-011904.**

Department of the Navy has engaged false FOIA reporting by failing to report in its FY 2021 FOIA report and raw data the FOIA request **DON-NAVY-2018-011904**. This is the extent of this single DOJ OIP FOIA compliance inquiry requiring a yes or no response. The FOIA request is not listed in DOD's FY 2021 FOIA raw data.

<https://open.defense.gov/Transparency/FOIA/DoD-Annual-Reports-to-AG/> .

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**BACKGRLOUD.**

Nathan Bosiak, knowing that this FOIA request is open in FOIA online and purportedly being responsible for DON JAG annual FOIA reporting through the chain of command to DONFOIA -PA to DOD, improperly sent me a "still interested" inquiry, notwithstanding my multiple preemptive replies to still inquiries stating:

**STILL-INTERESTED PREEMPTIVE REPLY.** This is a preemptive reply to the Justice Department guidelines the procedure known as a "still interested" inquiry, through which a FOIA officer can confirm that the requester has not lost interest in obtaining the documents.

My interest in all FOIA requests submitted to your office is enduring, meaning that my interest in seeking replies to all past and future FOIA requests remains in effect until each request has been answered fully and the time for judicial review has passed. Please do not initiate any "still interested" inquiries. This serves as my notice of enduring interest and automatic reply to any future questions of interest by your office. There are no reasonable grounds to ever conclude in the future that I am not interested in this request.

ANY referral or transfer of any of my FOIA requests/appeals must include my still interested preemptive reply.

Please provide a response prior to the upcoming June 29, 2022 FOIA Open Meeting where this matter will be addressed. I am prepared to ultimately introduce more than 1,000 FOIA compliance inquiries documenting instances of known false FOIA reporting and other violations of law, regulations, and policy.

With my deep respect,

Robert Hammond