

such protection is not considered adequate, FOUO material shall be stored in locked receptacles such as file cabinets, desks, or bookcases. FOUO records that are subject to the provisions of Public Law 86-36 (reference (c)) shall meet the safeguards outlined for that group of records. Army personnel handling National Security Agency (NSA) records will follow NSA instructions on storing and safeguarding those records.

TERMINATION, DISPOSAL AND
UNAUTHORIZED DISCLOSURES

§ 518.50 Termination.

The originator or other competent authority, e.g., initial denial and appellate authorities, shall terminate "For Official Use Only" markings or status when circumstances indicate that the information no longer requires protection from public disclosure. When FOUO status is terminated, all known holders shall be notified, to the extent practical. Upon notification, holders shall efface or remove the "For Official Use Only" markings, but records in file or storage need not be retrieved solely for that purpose.

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§ 518.51 Disposal.

(a) Nonrecord copies of FOUO materials may be destroyed by tearing each copy into pieces to preclude reconstructing, and placing them in regular trash containers. When local circumstances or experience indicates that this destruction method is not sufficiently protective of FOUO information, local authorities may direct other methods but must give due consideration to the additional expense balanced against the degree of sensitivity of the type of FOUO information contained in the records.

(b) Record copies of FOUO documents shall be disposed of in accordance with the disposal standards established under 44 U.S.C. chapter 33 (reference (q)), as implemented by DoD Component instructions concerning records disposal. Army implementing disposition instructions are in AR 5-400-2.

§ 518.52 Unauthorized disclosure.

The unauthorized disclosure of FOUO records does not constitute an unauthorized disclosure of DoD information classified for security purposes. Appropriate administrative action shall be taken, however, to fix responsibility for unauthorized disclosure whenever feasible, and appropriate disciplinary action shall be taken against those responsible. Unauthorized disclosure of FOUO information that is protected by the Privacy Act (reference (gg)) may also result in civil and criminal sanctions against responsible persons. The DoD Component that originated the FOUO information shall be informed of its unauthorized disclosure.

**Subpart E—Release and
Processing Procedures**

GENERAL PROVISIONS

§ 518.53 Public information.

(a) Since the policy of the Department of Defense is to make the maximum amount of information available to the public consistent with its other responsibilities, written requests for a DoD or Department of the Army record made under the FOIA may be denied only when:

(1) The record is subject to one or more of the exemptions in subpart C of this part.

(2) The record has not been described well enough to enable the DoD Component to locate it with a reasonable amount of effort by an employee familiar with the files.

(3) The requester has failed to comply with the procedural requirements, including the written agreement to pay or payment of any required fee imposed by the instructions of the DoD Component concerned. When personally identifiable information in a record is requested by the subject of the record or his attorney, notarization of the request may be required.

(b) Individuals seeking DoD information should address their FOIA requests to one of the addresses listed in appendix B.

(c) Release of information under the FOIA can have an adverse impact on OPSEC. The Army implementing directive for OPSEC is AR 530-1. It requires

that OPSEC points of contact be named for all HQDA staff agencies and for all commands down to battalion level. The FOIA official for the staff agency or command will use DA Form 4948-R to announce the OPSEC/FOIA advisor for the command. Persons named as OPSEC points of contact will be OPSEC/FOIA advisors. Command OPSEC/FOIA advisors should implement the policies and procedures in AR 530-1, consistent with this regulation and with the following considerations:

(1) Documents or parts of documents properly classified in the interest of national security must be protected. Classified documents may be released in response to a FOIA request only under AR 380-5, chapter III. AR 380-5 provides that if parts of a document are not classified and can be segregated with reasonable ease, they may be released, but parts requiring continued protection must be clearly identified.

(2) The release of unclassified documents could violate national security. When this appears possible, OPSEC/FOIA advisors should request a classification evaluation of the document by its proponent under AR 380-5, paragraphs 2-204, 2-600, 2-800, and 2-801. In such cases, other FOIA exemptions (para 3-200) may also apply.

(3) A combination of unclassified documents, or parts of them, could combine to supply information that might violate national security if released. When this appears possible, OPSEC/FOIA advisors should consider classifying the combined information per AR 380-5, paragraph 2-211.

(4) A document or information may not be properly or currently classified when a FOIA request for it is received. In this case, the request may not be denied on the grounds that the document or information is classified except in accordance with Executive Order 12356, §1.6(d), and AR 380-5, paragraph 2-204, and with approval of the Army General Counsel.

(d) OPSEC/FOIA advisors will—

(1) Advise persons processing FOIA requests on related OPSEC requirements.

(2) Help custodians of requested documents prepare requests for classification evaluations.

(3) Help custodians of requested documents identify the parts of documents that must remain classified under this paragraph and AR 380-5.

(e) OPSEC/FOIA advisors do not, by their actions, relieve FOIA personnel and custodians processing FOIA requests of their responsibility to protect classified or exempted information.

§ 518.54 Requests from private parties.

The provisions of the FOIA are reserved for persons with private interests as opposed to federal or foreign governments seeking official information. Requests from private persons will be made in writing, and will clearly show all other addresses within the Federal Government to whom the request was sent. This procedure will reduce processing time requirements, and ensure better inter and intra-agency coordination. Components are under no obligation to establish procedures to receive hand delivered requests. Foreign governments seeking information from DoD Components should use established official channels for obtaining information. Release of records to individuals under the FOIA is considered public release of information, except as provided for in §§ 518.24 and 518.32. DA officials will release the following records, upon request, to the persons specified below, even though these records are exempt from release to the general public. The 10-day limit (§ 518.22) applies.

(a) *Medical records.* Commanders or chiefs of medical treatment facilities will release information.

(1) On the condition of sick or injured patients to the patient's relatives.

(2) That a patient's condition has become critical to the nearest known relative or to the person the patient has named to be informed in an emergency.

(3) That a diagnosis of psychosis has been made to the nearest known relative or to the person named by the patient.

(4) On births, deaths, and cases of communicable diseases to local officials (if required by local laws).

(5) Copies of records of present or former soldiers, dependents, civilian employees, or patients in DA medical facilities will be released to the patient or to the patient's representative on