

[USMC FY07 FOIA ANNUAL REPORT]

ANNUAL REPORT FREEDOM OF INFORMATION ACT							REPORT CONTROL SYMBOL DD-DA&M(A)1365		
<b>1. INITIAL REQUEST DETERMINATIONS</b>									
a. GRANTED IN FULL		b. DENIED IN PART		c. DENIED IN FULL		d. "OTHER REASONS"		e. TOTAL ACTIONS	
1,438		760		189		1,209		3,596	
<b>2a. EXEMPTIONS INVOKED ON INITIAL REQUEST DETERMINATIONS</b>									
(b) (1)		(b) (2)		(b) (3)		(b) (4)		(b) (5)	
16		65		76		40		80	
(b) (7)(A)		(b) (7)(B)		(b) (7)(C)		(b) (7)(D)		(b) (7)(E)	
12		2		320		1		2	
<b>2b. "OTHER REASONS" CITED ON INITIAL DETERMINATIONS</b>									
1	2	3	4	5	6	7	8	9	TOTAL
344	522	94	30	40	33	40	33	73	1,209
<b>2c. STATUTES CITED ON INITIAL REQUEST (b)(3) EXEMPTIONS</b>									
(1)(b)(3) STATUTE CLAIMED			NUMBER OF INSTANCES	COURT UPHELD? <i>(Yes or No)</i>	CONCISE DESCRIPTION OF MATERIAL WITHHELD				
10 USC 130			6		Unclassified technical data used for military application (military aircraft).				
10 USC 130b			65		Names, ranks, email addresses of personnel in overseas, sensitive, or routinely deployable units.				
10 USC 1102			1		Confidentiality of Medical Records.				
10 USC 2305g			2		Losing contractor proposal information.				
50 USC 403-3(C)(7)			2		Data revealing sources and methods of intelligence data gathering.				
<b>3. APPEAL DETERMINATIONS</b>									
a. GRANTED IN FULL		b. DENIED IN PART		c. DENIED IN FULL		d. "OTHER REASONS"		e. TOTAL ACTIONS	
								0	

4a. EXEMPTIONS INVOKED ON APPEAL DETERMINATIONS												
(b) (1)		(b) (2)		(b) (3)		(b) (4)		(b) (5)		(b) (6)		
(b) (7)(A)		(b) (7)(B)		(b) (7)(C)		(b) (7)(D)		(b) (7)(E)		(b) (7)(F)	(b) (8)	(b) (9)
4b. "OTHER REASONS" CITED ON APPEAL DETERMINATIONS												
1	2	3	4	5	6	7	8	9	TOTAL			
									0			
4c. STATUTES CITED ON APPEAL (b)(3) EXEMPTIONS												
(1)(b)(3) STATUTE CLAIMED				NUMBER OF INSTANCES	COURT UPHELD? <i>(Yes or No)</i>	CONCISE DESCRIPTION OF MATERIAL WITHHELD						
5. NUMBER AND MEDIAN AGE OF INITIAL CASES PENDING						(1) AS OF BEGINNING REPORT PERIOD		(2) AS OF END REPORT PERIOD				
a. TOTAL INITIAL REQUESTS PENDING <i>(open)</i>						514		469				
b. MEDIAN AGE <i>(in days)</i> OF OPEN INITIAL REQUESTS						310		120				
6.a. TOTAL NUMBER OF INITIAL REQUESTS RECEIVED DURING THE FISCAL YEAR								3,551				
b. TOTAL NUMBER OF APPEALS RECEIVED												
7. TYPES OF INITIAL REQUESTS PROCESSED AND MEDIAN AGE						TOTAL NUMBER OF CASES		MEDIAN AGE (Days)				
a. SIMPLE						2,647		9				
b. COMPLEX						901		31				
c. EXPEDITED PROCESSING						48		1				
8. TOTAL AMOUNT COLLECTED FROM THE PUBLIC								\$ 5,875.11				
9. PROGRAM COST				10. REPORT ON EXECUTIVE ORDER (EO) 13392 IMPLEMENTATION <i>(See Page 3)</i>								
a. NUMBER OF FULL TIME STAFF		3		11. AUTHENTICATION								
b. NUMBER OF PART TIME STAFF		29		a. TYPED NAME <i>(Last, First, Middle Initial)</i>				b. DUTY TITLE				
				TERESA D. ROSS				HEAD, FOIA/PA SECTION (ARSP)				
c. ESTIMATED LITIGATION COST		\$7,500.00		c. AGENCY NAME				d. TELEPHONE NUMBER <i>(Include Area Code)</i>				
				U.S. MARINE CORPS				(703) 614-4008				
d. TOTAL PROGRAM COST		\$3,623,908.00										

OTHER "OTHER REASONS"

(1) RECORDS BELONG TO NARA NOT USMC: 15

(2) RECORDS MAINTAINED BY NPRC NOT USMC: 40

(3) REQUESTED INFORMATION AVAILABLE ON INTERNET: 10

(4) REFERRED REQUEST INCOMPLETE OR INCORRECTLY REFERRED: 8

TOTAL: 73

**10. REPORT ON EXECUTIVE ORDER (EO) 13392 IMPLEMENTATION.** In this section, which is required for the FY 2006 and FY 2007 FOIA Annual Reports, Components detail their compliance with EO 19932. *(Attach additional sheets if necessary. Reference each continuation sheet by item number.)*

a. **DESCRIPTION OF ANY SUPPLEMENTATION/MODIFICATION TO DOD IMPROVEMENT PLAN BY YOUR COMPONENT** *(If applicable).*  
Describe any refinements or changes to the DoD FOIA Improvement Plan made by your Component. If this does not apply to your Component, state "None".  
SEE ATTACHED.

b. **REPORT ON YOUR COMPONENT IMPLEMENTATION OF THE DOD FOIA IMPROVEMENT PLAN.** Describe how your Component performed in meeting each of the milestones listed in the Plan.  
SEE ATTACHED.

c. **IDENTIFICATION OF DEFICIENCIES** *(If applicable).* If your Component did not meet one or more milestones, list which one(s) were not met and why.  
SEE ATTACHED.

d. **ADDITIONAL NARRATIVE REGARDING OTHER EXECUTIVE ORDER-RELATED ACTIVITIES** *(optional).* This section allows Components the opportunity to provide any comments relevant to EO 13392.  
SEE ATTACHED.

e. **ADDITIONAL STATISTICS**

(1) **DATE OF YOUR COMPONENT'S OLDEST FOIA REQUEST**  
*(Date on request letter, or if undated, date received in your Component.)*

NO LONGER REQUIRED

(2) **DATE OF YOUR COMPONENT'S OLDEST FOIA CONSULTATION**  
*(Date of transmittal memo from referring Component or Agency to your Component. If undated, date received in your Component.)*

NO LONGER REQUIRED

DD-2564  
(continuation sheet)

10. REPORT ON EXECUTIVE ORDER (EO) 13392 IMPLEMENTATION

10a. Description of any supplementation to DoD Improvement Plan: NO ACTION REQUIRED, AS DOD WILL RESPOND.

10b. Report of your activity's implementation of the DOD FOIA Improvement Plan.

- Has your manning increased or decreased? Yes. HQMC FOIA is currently recruiting to fill one new permanent YA-0301-02 FOIA Specialist position to add to the HQMC FOIA personnel staff.

- Have you attended training during this fiscal year? Yes. HQMC and USMC personnel attended the ASAP 2007 Western Regional Training Series and the ASAP 2007 East Coast Training Series, in addition to FOIA courses offered by DOJ. Further, USMC FOIA personnel attended a 2-day comprehensive FOIA/PA training conference presented by the USMC and DON FOIA/PA Managers at Camp Lejeune NC in May 07.

- If you have a backlog (50 or more), describe what you are doing to reduce it? HQMC is the only USMC organization with a significant backlog. HQMC FOIA is recruiting one new FOIA specialist and is reorganizing/restructuring FOIA processing to establish an HQMC FOIA Case Processing Team dedicated solely to FOIA request processing and to FOIA backlog reduction.

- Are you using REDAX (electronic redaction)? To date, HQMC FOIA and JLC Miramar (3D MAW/MCAS Miramar FOIA) are the only USMC components that I am aware of that currently use REDAX.

- Do you have a FOIA web site? Yes, HQMC maintains a USMC FOIA On-Line website at <http://hqinet001.hqmc.usmc.mil/foia/index.htm> .

If yes, is it linked to [www.foia.navy.mil](http://www.foia.navy.mil) <<http://www.foia.navy.mil>>? The USMC FOIA On-Line website is linked to [www.foia.navy.mil](http://www.foia.navy.mil) <<http://www.foia.navy.mil>>. However, the "Marine Corps FOIA" link at [www.foia.navy.mil](http://www.foia.navy.mil) <<http://www.foia.navy.mil>> is incorrect (it currently links to <http://hqinet001.hqmc.usmc.mil/ar/ars/foia/index.htm>).

- Do you have an Electronic Reading Room? Yes. The USMC FOIA On-Line website does have a USMC FOIA Electronic Reading Room. This Reading Room site is not complete. Eventually, it will have "doors" that will link to the USMC Force Command FOIA electronic reading rooms and the USMC Major Subordinate Command FOIA electronic reading rooms.

- If yes, is it linked to [www.foia.navy.mil](http://www.foia.navy.mil) <<http://www.foia.navy.mil>> ? Yes. The USMC FOIA Electronic Reading Room does link to [www.foia.navy.mil/readingroom.asp](http://www.foia.navy.mil/readingroom.asp) <<http://www.foia.navy.mil/readingroom.asp>> . However, it is noted that the Marine Corps door links improperly to <http://hqinet001.hqmc.usmc.mil/ar/ars/foia/foiareadingrm2.htm> . The correct URL link for the USMC FOIA Electronic Reading Room is <http://hqinet001.hqmc.usmc.mil/FOIA/hqmcfoia/foiareadingrm.htm> .

**10c. Identification of Deficiencies.** Please share any challenges you are experiencing with responding to FOIA requests within 20 working days.

In addition to the ever-present issues regarding personnel staffing, there are other issues inherent in a FOIA request itself that make it impossible to complete processing within the 20-working-day time frame established by statute. For example, documents responsive to a FOIA request were submitted to the Agency from an outside third party (i.e., contractor) with an understanding of confidentiality. In such instances, E.O. 12600 requires the Agency to notify the submitting third party of the FOIA and afford them an opportunity to address whether disclosure of the identified responsive documents would result in substantial competitive harm to that submitting third party. Further, when the volume of identified responsive documents is such that processing cannot possibly be accomplished within the 20-working-day time frame (i.e., JAGMAN report of investigation comprised of 5,000+ pages, each of which have to be carefully reviewed and redacted of FOIA exempt data). Also, there are instances where the scope of the FOIA request is so expansive that there is no way to complete all processing within the time frame due to extensive coordination requirements (i.e., ACLU FOIA request for ALL documents in "agency" files pertaining to a broad-scope topic like detainee handling, TALON database reporting, OEF/OIF civilian war casualties, etc.).

**10d. Additional Narrative Regarding Other Related Activities to Strengthen Your FOIA Program (Optional):**

While not yet in development, HQMC FOIA has plans to design an online USMC FOIA Coordinator training series (with certification for each completed segment) that all USMC FOIA Coordinators will initially be required to complete. Thereafter, all new USMC FOIA Coordinators will be required to complete within a certain time frame from taking over their FOIA duties. Completion certificates will have to be provided to the FOIA officer in the next-higher level of their FOIA administrative reporting chain of command. These certificates are to be maintained for as long as the individual sits in that FOIA position.

Further, HQMC FOIA plans to rewrite and publish a new Marine Corps Order for FOIA that will specifically address how the DON FOIA Program will be implemented within the USMC. Marine Force Command and Major Subordinate Command FOIA Coordinators will be required to publish a local order that will address specifically how the USMC FOIA Program will be implemented within their command, including their subordinate reporting units. Additionally, each Marine Force Command and Major Subordinate Command FOIA Coordinator will be required to conduct yearly training for their command personnel that briefly summarizes what the FOIA is and what they are to do when they get a FOIA tasker (i.e., extent of search, written subject matter expert release comments, completing the DD-2086 form with regard to manhours and resources exhausted during processing, etc.).

Finally, ARSF plans to put together a decision paper for the Director, Marine Corps Staff, with regard to a proposal that the HQMC FOIA request processing function be partially decentralized to those HQMC Departments and Divisions that maintain and control requested documents.

Each Department/Division will establish a FOIA Coordinator that will track all FOIA actions within the Department/Division, prepare taskers to the Department/Division branch/branches that need to take action on a FOIA request, review identified responsive records and prepare for release and/or denial, and prepare release/denial correspondence to the requester, obtaining FOIA IDA signature when appropriate. ARSF, however, will maintain the FOIA administrative record for each Department/Division FOIA action, will collect and maintain all FOIA Annual Report statistics and reporting data, and will coordinate with OGC or JAG on any FOIA appeal that might stem from an HQMC Department/Division denial.

**10e. If you have a backlog, provide a copy of your oldest case and status report on why it has not been responded.**

USMC/HQMC oldest FOIA request case file: HQMC-200400071. This FOIA request, dated 12 Nov 03, seeks to obtain copies of two USMC contracts, M00027-02-C-0001 and M00027-02-C-0002. Both of these contracts are extremely voluminous (each exceeding 1,500 pages) that had to be scanned to an Adobe-PDF format for processing, had to be reviewed to identify those portions that were incorporated within the contract from the contractor's proposal or through negotiation, and then had to be coordinated with the contractor so that they could prepare an objection to public release should they believe that public disclosure would result in substantive competitive harm to their company. Due to an extremely understaffed HQMC FOIA office, getting both of these contracts scanned and then reviewed has been an overwhelming task when trying to also respond to all the other FOIA requests directed to this office. However, we have finally completed the scanning and review process and are currently involved in the E.O. 12600 notification process with the contractor (HQMC issued last chance letter to contractor on 26 Sep 07 with a pending 17 Oct 07 date for release to the FOIA requester). We anticipate that this request will be substantively complete and answered no later than the first part of Nov 07.

**If you are processing a referral from another agency and you are unable to process within 20 working days, provide a copy of the oldest referral (less enclosures) and an explanation as to its status.**

USMC/HQMC oldest FOIA referral case file: HQMC-200300728. This FOIA pertains to a CIA referral of a USMC originated document carrying a SECRET classification marking. On 16 Jul 03, the DON FOIA office referred this document and the National Security Archives FOIA request of 25 Sep 01 (reference Archive# 20011151CIA182) whereby they sought to obtain records from CIA files pertaining the Pakistani support for armed insurgent groups located in Indian occupied Kashmir. On 6 Jun 05, this office tasked the HQMC Security Office (ARS) with coordinating a declassification review of the referred document at HQMC (I) and/or MCIA. To date, there has been no response to that tasker.

**You may also include on a separate piece of paper any comments you have regarding your FOIA Requester Service Center experiences, the FOIA Improvement Plan, etc.**