



Homeland  
Security

November 24, 2010

MEMORANDUM FOR: Distribution

FROM: Mary Ellen Callahan   
Chief Freedom of Information Act Officer

SUBJECT: U.S. Department of Homeland Security (DHS) Application  
of FOIA Exemption (b)(6) to DHS Personnel Information  
Contained within Agency Records

This memorandum provides guidance on how DHS personnel information contained within agency records should be processed throughout the Department under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. It incorporates by reference all terms and provisions of the Chief FOIA Officer and Associate General Counsel – General Law’s joint memorandum issued March 4, 2008, which also addressed the application of FOIA Exemption (6) (5 U.S.C. § 552(b)(6)) to identifying information about DHS personnel.<sup>1</sup>

It is the policy of the Department to evaluate the release of personally identifying information on employees and individual DHS employees’ names on a case-by-case basis, and to implement this policy consistently across the components. Each such evaluation must consider the factors set forth in the *Reporters’ Committee* decision, which held that “information that does not directly reveal the operation or activities of the federal government falls outside the ambit of the public interest that the FOIA was enacted to serve.”<sup>2</sup> When processing records under the FOIA, the Department shall carefully consider whether the disclosure of identifying information about individual employees will shed light on how DHS performs its statutory duties.

In determining whether to withhold the information under Exemption 6, consideration shall focus on whether a release of the identifying information would cause a “clearly unwarranted invasion” of the employee’s privacy and whether the privacy interest of the employee(s) outweighs the public interest in that information.<sup>3</sup>

---

<sup>1</sup> Chief FOIA Officer and Associate General Counsel-General Law Joint Memorandum, DHS Treatment of DHS Personnel Information Contained within Agency Records Processed Pursuant to the FOIA, March 4, 2008, available at [http://www.dhs.gov/xlibrary/assets/foia/priv\\_cfoiao\\_agc\\_memo\\_treatment\\_of\\_dhs\\_personnel\\_info\\_pu rsuant\\_to\\_foia\\_20080304.pdf](http://www.dhs.gov/xlibrary/assets/foia/priv_cfoiao_agc_memo_treatment_of_dhs_personnel_info_pu rsuant_to_foia_20080304.pdf).

<sup>2</sup> *Department of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749, 775 (1989).

<sup>3</sup> See 5 U.S.C. § 552(b)(6).

In many cases information that identifies individual DHS employees does not directly shed light on the operations or activities of the government, and FOIA officers should withhold it. For example, employee direct phone numbers and email addresses should generally be withheld under Exemption 6, while main phone numbers should generally be released. However, please be cognizant of the fact certain information about federal employees may be releasable pursuant to Office of Personnel Management (OPM) regulations.<sup>4</sup> It is important to note senior-level agency officials have a lesser expectation of privacy than lower-level, administrative employees.<sup>5</sup>

While it is not practicable or desirable to establish a basis for categorically withholding the names of all DHS employees in all instances, it is consistent with Attorney General Holder's implementing guidelines to evaluate the release of personally identifying information on a case-by-case basis. As the Attorney General noted in his FOIA memorandum issued on March 19, 2009, the disclosure requirements of the FOIA are not absolute.<sup>6</sup>

Additionally, please note DHS policy affords Exemption (b)(7)(C) protection in addition to Exemption 6 protection for identifying information about employees context of records compiled for law enforcement purposes.

Any questions may be directed to Catherine Papoi, Deputy Chief FOIA Officer at (703) 235-0790 or [FOIA@dhs.gov](mailto:FOIA@dhs.gov).

---

<sup>4</sup> 5 C.F.R. § 293.311

<sup>5</sup> *Forest Serv. Employees for Envtl. Ethics v. U.S. Forest Service*, 524 F.3d 1021, 1025 (9<sup>th</sup> Cir. 2008), (quoting *Dobronski v. FCC*, 17 F.3d 275, 280 n.4 (9<sup>th</sup> Cir. 1994)).

<sup>6</sup> Attorney General's Memorandum for the Heads of Executive Departments and Agencies, Freedom of Information Act, March 19, 2009, available at [http://www.dhs.gov/xlibrary/assets/foia/ag\\_foia\\_memo2009-03-19.pdf](http://www.dhs.gov/xlibrary/assets/foia/ag_foia_memo2009-03-19.pdf).